

Texas State Board of Plumbing Examiners Board Rules

Revised February 2009

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Chapter 361 Administration

Sec. 361.1. Definitions.

The following words and terms, when used in this part, have the following meanings, unless the context clearly indicates otherwise:

(1) **Act**--The Plumbing License Law, Title 8, Chapter 1301, Occupations Code, as amended.

(2) **Administrative Act**--The Administrative Procedure Act, the Texas Government Code, §2001.001, et seq, as amended.

(3) **Administrator**--The Board-appointed executive director of all Board staff.

(4) **Adopted Plumbing Code**--A plumbing code, including a fuel gas code adopted by the Board or a political subdivision, including any city, town, village, municipality, public water system, municipal utility district, in compliance with §1301.255 and §1301.551 of the Plumbing License Law.

(5) **Advisory Committee**--A Board appointed committee subject to §1301.258 of the Plumbing License Law, §361.12 of these rules and Chapter 2110 of the Government Code, of which the primary function is to advise the Board.

(6) **Appliance Connection**--An appliance connection procedure using only a code approved appliance connector that does not require cutting into or altering the existing plumbing system.

(7) **Applicant**--An individual seeking to obtain a License, Registration or Endorsement.

(8) **Board**--The Texas State Board of Plumbing Examiners.

(9) **Board Member**--An individual appointed by the governor and confirmed by the senate to serve on the Board.

(10) **Building Sewer**--The part of the sanitary drainage system outside of the building, which extends from the end of the building drain to a public sewer, private sewer, private sewage disposal system, or other point of sewage disposal.

(11) **Certificate of Insurance**--a form submitted to the Board certifying that the Responsible Master Plumber carries insurance coverage as specified in §1301.522 of the Plumbing License Law and §367.3 of these Rules.

(12) **Chief Examiner**--an employee of the Board who, under the direction of the Administrator, coordinates and supervises the activities of the Board examinations and registrations.

(13) **Chief Field Representative**--the Director of Enforcement who is an employee of the Board who meets the definition of "Field Representative" and, under the direction of the Executive Director, coordinates and supervises the activities of the Field Representatives.

(14) **Cleanout**--A fitting, other than a p-trap, approved by the adopted plumbing code and designed to be installed in a sanitary drainage system to allow easy access for cleaning the sanitary drainage system.

(15) **Code-Approved Appliance Connector**--A semi-rigid or flexible assembly of tube and fittings approved by the adopted plumbing code and designed for connecting an appliance to the existing plumbing system without cutting into or altering the existing plumbing system.

(16) **Code Approved Existing Opening**--For the purposes of drain cleaning activities described in §1301.002(3) of the Plumbing License Law, a code approved existing opening is any existing cleanout fitting, inlet of any p-trap or fixture, or vent terminating into the atmosphere that has been approved and installed in accordance with the adopted plumbing code.

(17) **Complaint**--A written charge alleging a violation of state law, Board rules or orders, local codes or ordinances, or standards of competency; or the presence of fraud, false information, or error in the attempt to obtain a License, Registration or Endorsement.

(18) Contested Case--A proceeding, including but not limited to rulemaking, licensing and registering, in which the agency determines the legal right, duties, and privileges of a party after allowing an opportunity for adjudicative hearing of the case.

(19) Continuing Professional Education--Board-approved courses/programs required for a licensee to renew his or her License and/or Endorsement.

(20) Direct Supervision--

(A) The on-the-job oversight and direction of a Registered Plumber's Apprentice performing plumbing work by a licensed plumber who is fulfilling his or her responsibility to the client and employer by ensuring the following:

(i) that the plumbing materials for the job are properly prepared prior to assembly according to the material manufacturers recommendations and the requirements of the adopted plumbing code; and

(ii) that the plumbing work for the job is properly installed to protect health and safety by meeting the requirements of the adopted plumbing code and all requirements of local and state ordinances, regulations and laws.

(B) The on-the-job oversight and direction by a licensed Plumbing Inspector of an individual training to qualify for the Plumbing Inspector Examination.

(C) For plumbing work performed only in the construction of a new one-family or two-family dwelling in an unincorporated area of the state, a Responsible Master Plumber is not required to provide for the continuous or uninterrupted on-the-job oversight of a Registered Plumber's Apprentice's work by a licensed plumber, however, the Responsible Master Plumber must:

(i) provide for the training and management of the Registered Plumber's Apprentice by a licensed plumber;

(ii) provide for the review and inspection of the Registered Plumber's Apprentice's work by a licensed plumber to ensure compliance with subparagraph (A)(i) and (ii) of this paragraph; and

(iii) upon request by the Board, provide the name and plumber's license number of the licensed plumber who is providing on-the-job training and management of the Registered Plumber's Apprentice and who is reviewing and inspecting the Registered Plumber's Apprentice's work on the job, or the name and plumber's license number of the licensed plumber who trained and managed the Registered Plumber's Apprentice and who reviewed and inspected the Registered Plumber's Apprentice's work on a job.

(21) Drain Cleaner--An individual who has completed at least 4,000 hours working under the supervision of a Master Plumber as a registered Drain Cleaner Restricted Registrant, who has fulfilled the requirements of and is registered with the Board, and who installs cleanouts and removes and resets p-traps to eliminate obstructions in building drains and sewers.

(22) Drain Cleaner-Restricted Registrant--An individual who has worked as a registered Plumber's Apprentice under the supervision of a Master Plumber, who has fulfilled the requirements of and is registered with the Board, and who clears obstructions in sewer and drain lines through any code-approved existing opening.

(23) Endorsement--a certification issued by the Board in addition to the Master or Journeyman Plumber License.

(24) Field Representative--for the purposes of these Rules,

(A) "Field Representative" means an employee of the Board who is:

(i) knowledgeable of this Act and of municipal ordinances relating to plumbing;

(ii) qualified by experience and training in good plumbing practice and compliance with this Act;

(iii) designated by the Board to assist in the enforcement of this Act and rules adopted under this Act.

(B) A field representative may:

(i) Make on-site license and registration checks to determine compliance with this Act;

(ii) investigate consumer complaints filed under §1301.303 of the Plumbing License Law;

(iii) assist municipal plumbing inspectors in cooperative enforcement of this Act; and

(iv) issue citations as provided by §1301.502 of the Plumbing License Law.

(25) Journeyman Plumber--An individual licensed under this Act who has met the qualifications for registration as a Plumber's Apprentice or for licensure as a Tradesman Plumber-Limited Licensee, who has completed at least 8,000 hours working under the supervision of a master plumber, who supervises, engages in, or works at the actual installation, alteration, repair, service and renovating of plumbing, and who has successfully fulfilled the examinations and requirements of the Board.

(26) License--A document issued by the Board to certify that the named individual fulfilled the requirements of the Act and of these rules to hold a license issued by the Board.

(27) Licensing and Registering--The process of granting, denying, renewing, revoking, or suspending a License, Registration or Endorsement.

(28) Maintenance Man or Maintenance Engineer--An employee, as opposed to an independent contractor, who performs plumbing maintenance work incidental to and in connection with other duties. "Incidental to and in connection with" includes the repair, maintenance and replacement of existing potable water piping, existing sanitary waste and vent piping, existing plumbing fixtures and existing water heaters. "Incidental to and in connection with" does not include cutting into fuel gas plumbing systems and the installation of gas fueled water heaters. An individual who erects, builds, or installs plumbing not already in existence may not be classified as a maintenance man or maintenance engineer. Plumbing work performed by a maintenance man or maintenance engineer is not exempt from state law and municipal rules and ordinances regarding plumbing codes, plumbing permits and plumbing inspections. Such maintenance individuals shall not engage in plumbing work for the general public.

(29) Master Plumber--An individual licensed under this Act who is skilled in the planning, superintending, and the practical installation, repair, and service of plumbing, who secures permits for plumbing work, who is knowledgeable about the codes, ordinances, or rules and regulations governing those matters, who alone, or through an individual or individuals under his supervision, performs plumbing work, and who has successfully fulfilled the examinations and requirements of the Board.

(30) Medical Gas Piping Installation Endorsement--a document entitling the holder of a Master or Journeyman Plumber License to install piping that is used solely to transport gases used for medical purposes including, but not limited to oxygen, nitrous oxide, medical air, nitrogen, medical vacuum.

(31) One Family Dwelling--a detached structure designed for the residence of a single family that does not have the characteristics of a multiple family dwelling, and is not primarily designed for transient guests or for providing services for rehabilitative, medical, or assisted living in connection with the occupancy of the structure.

(32) Party--Each person named or admitted in association with an action as a party.

(33) Paid Directly--As related to §1301.255(e) of the Plumbing License Law, "paid" and "directly" have the common meanings and "paid directly" means that compensation for plumbing inspections must be paid by the political subdivision to the individual Licensed Plumbing Inspector who performed the plumbing inspections or the plumbing inspection business which utilized the plumbing inspector to perform the inspections.

(34) Person--For the purposes of these Rules only, a person means an individual, partnership, corporation, limited liability company, association, governmental subdivision or public or private organization of any character other than an agency.

(35) Petitioner--A person asking the Board to adopt a rule.

(36) Plumber's Apprentice--any individual other than a Master Plumber, Journeyman Plumber, or Tradesman Plumber-Limited Licensee who, as his or her principal occupation, is engaged in learning and assisting in the installation of plumbing, is registered by the Board, and works under the supervision of a licensed Master Plumber and the direct supervision of a licensed plumber.

(37) Plumbing--All piping, fixtures, appurtenances, and appliances, including disposal systems, drain or waste pipes, or any combination of these that: supply, recirculate, drain, or eliminate water, gas, medical gasses and vacuum, liquids, and sewage for all personal or domestic purposes in and about buildings where persons live, work, or assemble; connect the building on its outside with the source of water, gas, or other liquid supply, or combinations of these, on the premises, or the water main on public property; and carry waste water or sewage from or within a building to the sewer service lateral on public property or the disposal or septic terminal that holds private or domestic sewage. The installation, repair, service, maintenance, alteration, or renovation of all piping, fixtures, appurtenances, and appliances on premises where persons live, work, or assemble that supply gas, medical gasses and vacuum, water, liquids, or any combination of these, or dispose of waste water or sewage.

(38) Plumbing Company--A person, as defined in these Rules, who engages in the plumbing business.

(39) Plumbing Inspection--Any of the inspections required in §1301.255 and §1301.551 of the Plumbing License Law, including any check of pipes, faucets, tanks, valves, water heaters, plumbing fixtures and appliances by and through which a supply of water, gas, medical gasses or vacuum, or sewage is used or carried that is performed on behalf of any political subdivision, public water supply, municipal utility district, town, city or municipality to ensure compliance with the adopted plumbing and gas codes and ordinances regulating plumbing.

(40) Plumbing Inspector--means any individual who is employed by a political subdivision, or who contracts as an independent contractor with a political subdivision, for the purpose of inspecting plumbing work and installations in connection with health and safety laws, ordinances, and plumbing and gas codes, who has no financial or advisory interests in any plumbing company, and who has successfully fulfilled the examinations and requirements of the Board.

(41) Pocket Card--A card issued by the Board which certifies that the holder has a Master Plumber License, Journeyman Plumber License, Tradesman Plumber-Limited License, Plumbing Inspector License, Residential Utilities Installer Registration, Drain Cleaner Registration, Drain Cleaner-Restricted Registration or a Plumber's Apprentice Registration.

(42) Political Subdivision--A political subdivision of the State of Texas that includes a:

- (A) city;
- (B) county;
- (C) school district;
- (D) junior college district;
- (E) municipal utility district;
- (F) levee improvement district;
- (G) drainage district;

- (H) irrigation district;
- (I) water improvement district;
- (J) water control improvement district;
- (K) water control preservation district;
- (L) freshwater supply district;
- (M) navigation district;
- (N) conservation and reclamation district;
- (O) soil conservation district;
- (P) communication district;
- (Q) public health district;
- (R) river authority; and
- (S) any other governmental entity that:
 - (i) embraces a geographical area with a defined boundary;
 - (ii) exists for the purpose of discharging functions of government and;
 - (iii) possesses authority for subordinate self government through officers selected by it.

(43) P-Trap--A fitting connected to the sanitary drainage system for the purpose of preventing the escape of sewer gasses from the sanitary drainage system and designed to be removed to allow for cleaning of the sanitary drainage system. For the purposes of drain cleaning activities described in §1301.002(2) of the Plumbing License Law, a p-trap includes any integral trap of a water closet, bidet, or urinal.

(44) Public Water System--A system for the provision to the public of water for human consumption through pipes or other constructed conveyances. Such a system must have at least 15 service connections or serve at least 25 individuals at least 60 days out of the year. Two or more systems with each having a potential to serve less than 15 connections or less than 25 individuals, but owned by the same person, firm, or corporation and located on adjacent land will be considered a public water system when the total potential service connections in the combined systems are 15 or greater or if the total number of individuals served by the combined systems total 25 or greater, at least 60 days out of the year. Without excluding other meanings of the terms "individual" or "served," an individual shall be deemed to be served by a water system if the individual lives in, uses as the individual's place of employment, or works in a place to which drinking water is supplied from the water system.

(45) Regularly Employed--Steadily, uniformly, or habitually working in an employer-employee relationship with a view of earning a livelihood, as opposed to working casually or occasionally.

(46) Residential Utilities Installer--means an individual who has completed at least 2,000 hours working under the supervision of a Master Plumber as a registered Plumber's Apprentice, who has fulfilled the requirements of and is registered with the Board, and who constructs and installs yard water service piping for onefamily or twofamily dwellings and building sewers.

(47) Respondent--A person charged in a complaint filed with the Board.

(48) Responsible Master Plumber--A Responsible Master Plumber is the Master Plumber who allows his Master Plumber License to be used by a company for the purpose of performing plumbing work and obtaining the required plumbing permits. The Master Plumber by allowing his license to be used in this manner, assumes responsibility for all plumbing work performed. A Responsible Master Plumber may allow his Master Plumber License to be used by only one plumbing company.

(49) Rule--An agency statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedure or practice requirements of the agency. The term includes the amendment or repeal of a prior rule but does not include statements concerning only the internal management or organization of the agency and not affecting private rights or procedures.

(50) Supervision--the general on-the-job or off-the-job oversight, direction and management of plumbing work and individuals performing plumbing work by a Responsible Master Plumber who is fulfilling his or her responsibility to the client and employer by ensuring the following:

(A) that the operations of the plumbing company that has secured his or her services meets the requirements of all applicable local and state ordinances, regulations and laws; and

(B) that the plumbing work performed under his or her License will protect health and safety by meeting the requirements of the adopted plumbing code and all requirements of local and state ordinances, regulations and laws.

(51) System--An interconnection between one or more public or private end users of water, gas, sewer, or disposal systems that could endanger public health if improperly installed.

(52) Tradesman Plumber-Limited Licensee--means an individual who has completed at least 4,000 hours working under the direct supervision of a Journeyman or Master Plumber as a registered Plumber's Apprentice, who has passed the required examination and fulfilled the other requirements of the Board, who constructs and installs plumbing for onefamily or twofamily dwellings, and who has not met or attempted to meet the qualifications for a Journeyman Plumber License.

(53) Two Family Dwelling--a detached structure with separate means of egress designed for the residence of two families ("duplex") that does not have the characteristics of a multiple family dwelling and is not primarily designed for transient guests or for providing services for rehabilitative, medical, or assisted living in connection with the occupancy of the structure.

(54) Water Supply Protection Specialist--a Master or Journeyman Plumber who holds the Water Supply Protection Specialist Endorsement issued by the Board.

(55) Water Treatment--A business conducted under contract that requires experience in the analysis of water, including the ability to determine how to treat influent and effluent water, to alter or purify water, and to add or remove a mineral, chemical, or bacterial content or substance. The term also includes the installation and service of potable water treatment equipment in public or private water systems and making connections necessary to complete installation of a water treatment system.

(56) Work as a Master Plumber--To act as and assume the responsibilities of a Responsible Master Plumber, as defined in these Rules.

(57) Yard Water Service Piping--The building supply piping carrying potable water from the water meter or other source of water supply to the point of connection to the water distribution system at the building.

Source: The provisions of this §361.1 adopted to be effective May 18, 1982, 7 TexReg 1748; amended to be effective August 25, 1993, 18 TexReg 5399; amended to be effective December 8, 1993, 18 TexReg 8785; amended to be effective April 15, 1994, 19 TexReg 2279; amended to be effective August 8, 1994, 19 TexReg 5709; amended to be effective June 7, 1996, 21 TexReg 4686; amended to be effective February 27, 1997, 22 TexReg 1807; amended to be effective April 9, 1998, 23 TexReg 3445; amended to be effective June 1, 1999, 24 TexReg 4008; amended to be effective August 3, 2000, 25 TexReg 7176 ; amended to be effective December 30, 2001, 26 TexReg 10574; amended to be effective February 12, 2004, 29 TexReg 1199; amended to be effective August 11, 2004, 29 TexReg 7700; amended to be effective October 30, 2007, 32 TexReg 7687

Sec. 361.2. Purpose.

The purpose of these sections is to provide standards and procedures to implement the provisions of the Act, of the Administrative Act, and of all applicable laws for the examination and licensing of plumbers and plumbing inspectors in Texas.

Source: The provisions of this §361.2 adopted to be effective May 18, 1982, 7 TexReg 1748.

Sec. 361.3. Scope.

The board shall apply the provisions of these sections to all individuals engaged in plumbing activities and plumbing inspection in Texas, with the exceptions noted in the Act and in these sections.

Source: The provisions of this §361.3 adopted to be effective May 18, 1982, 7 TexReg 1748.

Sec. 361.4. The Board.

The board shall hold meetings and conduct business in accordance with all applicable laws, these sections, and any procedures it may establish to discharge its functions. The board shall set forth in writing any such procedures so established and file them with the agency as open records.

Source: The provisions of this §361.4 adopted to be effective May 18, 1982, 7 TexReg 1748.

Sec. 361.5. Administration.

The board shall delegate to the administrative staff under the direction of its administrator those functions appropriate to the daily conduct of the board's business of carrying out the purposes of all applicable laws and of these rules.

Source: The provisions of this §361.5 adopted to be effective May 18, 1982, 7 TexReg 1748; amended to be effective August 25, 1993, 18 TexReg 5399.

Sec. 361.6. Fees.

(a) The Board has established the following fees:

(1) Initial Licenses, Endorsements and Registrations

- (A) Master Plumber license--\$198;
- (B) Journeyman Plumber license--\$27;
- (C) Medical gas installation endorsement (Master)--\$55;
- (D) Medical gas installation endorsement (Journeyman)--\$14;
- (E) Plumbing inspector license--\$55;
- (F) Water supply protection specialist endorsement (Journeyman)--\$14;
- (G) Water supply protection specialist endorsement (Master)--\$55;
- (H) Tradesman Plumber-Limited License--\$27;
- (I) Plumber's Apprentice Registration/Application--\$12;
- (J) Residential Utilities Installer Registration/Application--\$12;
- (K) Drain Cleaner Registration/Application--\$12;
- (L) Drain Cleaner-Restricted Registration/Application--\$12.

(2) Examinations

- (A) Master Plumber examination--\$155;
- (B) Journeyman Plumber examination--\$27;
- (C) Medical gas installation endorsement (Master)--\$80;
- (D) Medical gas installation endorsement (Journeyman)--\$27;
- (E) Plumbing inspector examination--\$55;
- (F) Water supply protection specialist endorsement (Journeyman)--\$27;
- (G) Water supply protection specialist endorsement (Master)--\$80;
- (H) Tradesman Plumber-Limited License--\$27.

(3) Renewals

- (A) Master Plumber license--\$198;
- (B) Journeyman Plumber license--\$27;
- (C) Medical gas installation endorsement (Master)--\$55;
- (D) Medical gas installation endorsement (Journeyman)--\$14;
- (E) Plumbing inspector license--\$55;
- (F) Water supply protection specialist endorsement (Journeyman)--\$14;
- (G) Water supply protection specialist endorsement (Master)--\$55;
- (H) Plumbing Inspector with a Master and/or Journeyman License--\$55;
- (I) Master Plumber with Journeyman Plumber License--\$198;
- (J) Tradesman Plumber-Limited License--\$27;
- (K) Plumber's Apprentice Registration--\$12;
- (L) Residential Utilities Installer Registration--\$12;
- (M) Drain Cleaner Registration--\$12;
- (N) Drain Cleaner-Restricted Registration--\$12.

(4) Other fees

(A) Late renewal

(i) Master Plumber:

(I) less than 90 days--one-half renewal fee--\$99;

(II) more than 90 days--renewal fee--\$198;

(ii) Medical gas installation endorsement (Master):

(I) less than 90 days--one half renewal fee--\$27.50;

(II) more than 90 days--renewal fee--\$55;

(iii) Medical gas installation endorsement (Journeyman):

(I) less than 90 days--one half renewal fee--\$7;

(II) more than 90 days--renewal fee--\$14;

(iv) Journeyman Plumber:

(I) less than 90 days--one-half renewal fee--\$13.50;

(II) more than 90 days--renewal fee--\$27;

(v) Water supply protection specialist (Journeyman):

(I) less than 90 days--one half renewal fee--\$7;

(II) more than 90 days--renewal fee--\$14;

(vi) Water supply protection specialist (Master):

(I) less than 90 days--one half renewal fee--\$27.50;

(II) more than 90 days--renewal fee--\$55;

(vii) Plumbing Inspector:

(I) less than 90 days--one half renewal fee--\$27.50;

(II) more than 90 days--renewal fee--\$55;

(viii) Master Plumber with Journeyman Plumber:

(I) less than 90 days--one half renewal fee--\$99;

(II) more than 90 days--renewal fee--\$198;

(ix) Plumbing Inspector with Master and/or Journeyman Plumber:

(I) less than 90 days--one half renewal fee--\$27.50;

(II) more than 90 days--renewal fee--\$55;

(x) Tradesman Plumber-Limited License:

(I) less than 90 days--one half renewal fee--\$13.50;

(II) more than 90 days--renewal fee--\$27;

(xi) Plumber's Apprentice Registration:

(I) less than 90 days--one half renewal fee--\$6;

(II) more than 90 days--renewal fee--\$12;

- (xii) Residential Utilities Installer Registration:
 - (I) less than 90 days--one half renewal fee--\$6;
 - (II) more than 90 days--renewal fee--\$12;
- (xiii) Drain Cleaner Registration:
 - (I) less than 90 days--one half renewal fee--\$6;
 - (II) more than 90 days--renewal fee--\$12;
- (xiv) Drain Cleaner-Restricted Registration :
 - (I) less than 90 days--one half renewal fee--\$6;
 - (II) more than 90 days--renewal fee--\$12.
- (B) Instructor Certification Training (Per Day)--\$100.
- (C) Duplicate license or registration--\$10.
- (D) Returned check--\$25.

(b) Methods of payment

(1) Fees paid electronically through the Texas Online website, which may be accessed from the Texas State Board of Plumbing Examiners' website, may be made in the form of credit card or check.

(2) Fees paid by mail or in person may be made in the form of money order, cashier's check, personal check, business check, or the exact amount of cash (cash payments by mail are not recommended).

(3) An individual shall pay the appropriate fee prior to the time of examination. For License, Registration, Endorsement, and renewal, the appropriate fee shall be paid prior to issuance of the License, Registration, Endorsement, or renewal.

(4) The board, under any special circumstances it finds appropriate, may:

- (A) waive any requirements concerning the method or timing of payment of any fee;
- (B) refund any fee; or
- (C) waive payment of any fee not required by statute.

Source: The provisions of this §361.6 adopted to be effective May 18, 1982, 7 TexReg 1748; amended to be effective December 5, 1989, 14 TexReg 6129; amended to be effective August 25, 1993, 18 TexReg 5399; amended to be effective December 8, 1993, 18 TexReg 8785; amended to be effective August 8, 1994, 19 TexReg 5709; amended to be effective August 7, 1995, 20 TexReg 5501; amended to be effective June 7, 1996, 21 TexReg 4686; amended to be effective February 27, 1997, 22 TexReg 1807; amended to be effective September 15, 1997, 22 TexReg 8999; amended to be effective January 31, 1999, 24 TexReg 557; amended to be effective June 1, 1999, 24 TexReg 4009; amended to be effective December 30, 2001, 26 TexReg 10574; amended to be effective August 1, 2002, 27 TexReg 6504; amended to be effective September 1, 2003, 28 TexReg 6025; amended to be effective February 12, 2004, 29 TexReg 1199; amended to be effective September 1, 2004, 29 TexReg 7700; amended to be effective October 2, 2005, 30 TexReg 6052.

Sec. 361.7. Employee Training and Education.

(a) With the approval of the Executive Director, the Board may make available to its administrators and employees funds for training and education in accordance with the Employee Training Act, Government Code Chapter 656, Subchapter C, §§656.041 - 656.049.

(b) In order to be eligible for agency supported training and education, the administrator or employee must demonstrate in writing, to the satisfaction of the Executive Director, that the training or education is related to the duties or prospective duties of the administrator or employee.

(c) Eligible training and education expenses that are approved by the Executive Director may include, as appropriate, salary, tuition, and other fees, travel and living expenses, training stipend, expense of training materials, and other necessary expenses of an instructor, student, or other participant in a training or education program.

(d) The Executive Director may determine to pay all or part of the expenses related to training on a reimbursement basis to the employee or administrator, upon successful completion of the training.

(e) An employee who completes training and education to obtain a degree or certification for which the Board has provided all or part of the required fees must agree in writing to fully repay the Board any amounts paid for educational assistance if the employee voluntarily terminates employment with the agency within one year of course completion.

Source: The provisions of this §361.7 adopted to be effective October 30, 2007, 32 TexReg 7688.

Sec. 361.8. Forms and Materials.

The Board incorporates by reference any rules that may be contained in the following forms and requires the use of these forms in doing business with the agency:

- (1) Applications for Examination, Registration and Endorsements;
- (2) Employer's Certification;
- (3) General Complaint;
- (4) Applications for renewals of Licenses, Registrations and Endorsements;
- (5) Supplemental Criminal History Information;
- (6) Application for Nonstandard Testing Accommodations including the Physician or Licensed Health Care Provider;
- (7) Certificate of Insurance.

Source: The provisions of this §361.8 adopted to be effective May 18, 1982, 7 TexReg 1748; amended to be effective September 9, 1982, 7 TexReg 3142; amended to be effective August 25, 1993, 18 TexReg 5399; amended to be effective August 8, 1994, 19 TexReg 5709; amended to be effective June 1, 1999, 24 TexReg 4010; amended to be effective December 30, 2001, 26 TexReg 10574.

Sec. 361.9. Charges for Copies of Public Records.

The charge to any person requesting copies of any public record of the Texas State Board of Plumbing Examiners will be the charge established by the General Services Commission and according to the requirements of the Public Information Act. Copies of public records shall be furnished without charge or at a reduced charge if the administrator determines that waiver or reduction of the fee is in the public interest because furnishing the information can be considered as primarily benefiting the general public.

Source: The provisions of this §361.9 adopted to be effective June 2, 1994, 19 TexReg 3930; amended to be effective June 1, 1999, 24 TexReg 401.

Sec. 361.10. Historically Underutilized Business (HUB) Program.

The Texas State Board of Plumbing Examiners adopts the rules of the General Services Commission relating to the Historically Underutilized Business (HUB) Program and codified at 1 Texas Administrative Code, Part V, Subchapter B, Chapter 111, §§111.11-111.16.

Source: The provisions of this §361.10 adopted to be effective December 14, 1999, 24 TexReg 11104.

Section 361.11. State Vehicle Management.

- (a) Each state vehicle utilized by the Board, with the exception of a vehicle assigned to a field employee, shall be assigned to the Board's agency motor pool and be available for checkout by Board employees who are authorized by the Board's Administrator to use the vehicle.
- (b) No state vehicle utilized by the Board may be assigned to an individual administrative or executive employee on a regular basis, unless the Board makes a written documented finding that the assignment is critical to the needs of the mission of the Board.
- (c) The Board's Administrator shall administer policies and procedures consistent with the Office of Fleet Vehicle Management of the General Services Commission's State Vehicle Fleet Management Plan.

Source: The provisions of this §361.11 adopted to be effective May 1, 2001, 26 TexReg 3218.

Sec. 361.12. Advisory Committees

- (a) The Board may appoint Advisory Committees as it considers necessary for the primary function of advising the Board.
- (b) Advisory Committees are subject to §5(f) of the Act and Chapter 2110.008 of the Government Code and shall:
 - (1) be composed of a reasonable number of members not to exceed 24 members who provide a balanced representation between:
 - (A) individuals regulated or directly affected by the Board; and
 - (B) consumers of services provided by the Board or the plumbing industry; and
 - (2) select from among its members a presiding officer who shall preside over the advisory committee and report to the Board; and
 - (3) serve without compensation or reimbursement.
- (c) If the Board appoints an advisory committee, it shall adopt rules that:
 - (1) state the purpose of the committee;
 - (2) describe the task of the committee and the manner in which the committee will report to the Board; and
 - (3) the date on which the committee will automatically be abolished (not to exceed four years from its creation) unless the Board votes to continue the committee in existence.
- (d) If the Board appoints an advisory committee it shall evaluate annually:
 - (1) the committee's work;
 - (2) the committee's usefulness; and
 - (3) the costs related to the committee's existence, including the cost of Board staff time spent in support of the committee's activities.
- (e) The Board shall report to the Legislative Budget Board the information developed in the evaluation required in subsection (d) of this section. The Board shall file the report biennially in connection with the agency's request for appropriations.

Source: The provisions of this §361.12 adopted to be effective December 30, 2001, 26 TexReg 10574.

Sec. 361.13. Board Committees and Enforcement Committee

- (a) The Board may create committees to assist the Board in exercising its powers and duties.
- (b) The presiding officer of the Board shall appoint the members of the committees. Except as provided by Subsection (c) of this Section, each committee member must be a member of the Board.
- (c) The presiding officer may appoint only members of the agency staff to the Enforcement Committee whose duties will include following the requirements of the Administrative Procedure Act, the Plumbing License Law and the policies, guidelines and rules established by the Board and:

- (1) review and investigate complaints;
- (2) conduct informal conferences;
- (3) negotiate proposed settlements;
- (4) oversee the preparation for contested cases;
- (5) pursue cases at the State Office of Administrative Hearings;
- (6) oversee the issuance of cease and desist orders, administrative penalties, criminal citations and the filing of injunctions; and
- (7) review applicants for examination, registration and licensing who have a criminal conviction history affected by Board Rule §363.2

Source: The provisions of this §361.13 adopted to be effective November 4, 2003, 28 TexReg 9536.

Sec. 361.21. Petition for Adoption of Rules.

Any person who petitions the board in writing to request the adoption of rules shall:

- (1) include a brief statement summarizing the proposed action and detailing its desired effect;
- (2) include a full justification of the proposed action in narrative form, citing all pertinent facts and circumstances;
- (3) refer to an existing rule under consideration by title and code number and preface the text to indicate words and punctuation to be added, changed, or deleted;
- (4) prepare the text of a new rule in the exact form that is desired to be adopted;
- (5) include a suggested effective date;
- (6) include the petitioner's full name, complete mailing address, and telephone number;
- (7) include the signature of the petitioner and of the petitioner's representative, if any; and
- (8) file 10 copies (one for the administrator and one for each board member) at least 30 days before the meeting at which the petition is to be considered.

Source: The provisions of this §361.21 adopted to be effective May 18, 1982, 7 TexReg 1748; amended to be effective August 25, 1993, 18 TexReg 5399.

Sec. 361.22.

Source: The provisions of this § 361.22 adopted to be effective May 18, 1982, 7 TexReg 1748; amended to be effective August 25, 1993, 18 TexReg 5399; amended to be effective December 8, 1993, 18 TexReg 8785; amended to be effective February 5, 1998, 23 TexReg 754; amended to be effective January 30, 2001, 26 TexReg 972; amended to be effective December 30, 2001, 26 TexReg 10583. § 361.22 repealed to be effective August 11, 2004, 29 Tex Reg 7701.

Sec. 361.23.

Source: The provisions of this § 361.23 adopted to be effective May 18, 1982, 7 TexReg 1748; amended to be effective August 25, 1993, 18 TexReg 5399; § 361.23 repealed to be effective August 11, 2004, 29 Tex Reg 7701.

Sec. 361.24.

Source: The provisions of this § 361.24 adopted to be effective May 18, 1982, 7 TexReg 1748; amended to be effective August 25, 1993, 18 TexReg 5399; § 361.24 repealed to be effective August 11, 2004, 29 Tex Reg 7701.

Sec. 361.25.

Source: The provisions of this § 361.25 adopted to be effective May 18, 1982, 7 TexReg 1748; amended to be effective August 25, 1993, 18 TexReg 5399; adopted to be effective June 1, 1999, 24 TexReg 4011; § 361.25 repealed to be effective November 4, 2003, 28 TexReg 9537.

Sec. 361.26.

Source: The provisions of this § 361.26 adopted to be effective August 25, 1993, 18 TexReg 5399; amended to be effective August 8, 1994, 19 TexReg 5709; amended to be effective October 14, 1996, 21 TexReg 9445; adopted to be effective June 1, 1999, 24 TexReg 4012; amended to be effective December 30, 2001, 26 TexReg 10583; § 361.26 repealed to be effective August 11, 2004, 29 Tex Reg 7701..

Sec. 361.27.

Source: The provisions of this § 361.27 adopted to be effective October 14, 1996, 21 TexReg 9445; adopted to be effective June 1, 1999, 24 TexReg 4012; amended to be effective December 30, 2001, 26 TexReg 10583; § 361.22 repealed to be effective August 11, 2004, 29 Tex Reg 7701.

Sec. 361.28.

Source: The provisions of this § 361.28 adopted to be effective October 14, 1996, 21 TexReg 9446; amended to be effective February 5, 1998, 23 TexReg 754, March 30, 1999, 24 TexReg 2352; amended to be effective December 30, 2001, 26 TexReg 10583; § 361.28 repealed to be effective November 4, 2003, 28 TexReg 9537.

Sec. 361.29. Election of Board Officers.

(a) The governor shall designate a member of the board as the presiding officer of the Board to serve in that capacity at the pleasure of the governor.

(b) The Board shall elect a secretary from its membership.

(1) The election may be held every two years during the July Board meeting.

(2) The elected Board Secretary shall take office on the first day of September following the election held at the July Board meeting.

(3) If the office becomes vacant for any reason, a special election shall be held at the next regularly scheduled Board meeting to fill the office for the unexpired term.

Source: The provisions of this §361.29 adopted to be effective December 5, 1996, 21 TexReg 11485; amended to be effective June 1, 1999, 24 TexReg 4013; amended to be effective August 29, 2001, 26 TexReg 6299; amended to be effective August 11, 2004, 29 TexReg 7702

Chapter 363 Examination and Registration

Sec. 363.1. Qualifications.

(a) An applicant may qualify for a Master Plumber License, Journeyman Plumber License, Tradesman Plumber-Limited License, Plumbing Inspector License, Plumber's Apprentice Registration, Residential Utilities Installer Registration, Drain Cleaner Registration or Drain Cleaner-Restricted Registration. A Master or Journeyman Plumber License may contain a Medical Gas Piping Installation Endorsement or Water Supply Protection Specialist Endorsement. In order to qualify for any of the licenses or endorsements an applicant must meet all the requirements of the Board, successfully complete the required examination and remit the appropriate fee. In order to qualify for any of the registrations an applicant must meet all the requirements of the Board and remit the appropriate fee.

(b) When a Plumber's Apprentice or Tradesman Plumber-Limited Licensee applies to take an examination, he/she must submit the Employer's Certification. This form certifies the Applicant's work experience complies with the eligibility criteria for the examination. If the applicant has met the criteria through employment with one employer, the Employer's Certification must be completed by that employer. However, if the applicant has met the criteria through employment with various employers, then the Employer's Certification must be submitted from each of those employers.

Therefore, the Board recommends that the applicant request an employer complete the Employer's Certification each time the Applicant discontinues employment with a particular employer. A Licensee is required to complete the Employer's Certification form within 30 days of a request by any individual who has worked as a Plumber's Apprentice or Tradesman Plumber-Limited Licensee under the Licensee's supervision. It is the responsibility of the Applicant to supply the Licensee with the Employer's Certification form.

(c) Master Plumber. Each applicant must:

(1) be licensed either as:

(A) a Journeyman Plumber in Texas or another state with at least 8,000 hours working at the trade under a Master Plumber and must have held the Journeyman License for at least one year before filing the Master Plumber application; or

(B) a Master Plumber in another state who has met the requirements in subparagraph (A) of this paragraph;

(2) be a high school graduate or hold a General Equivalency Diploma (GED); and

(3) maintain a single registered mailing address that the Board shall regard as the applicant's principal business address for communication and record keeping purposes.

(4) be a citizen or national of the United States or an alien or non-immigrant eligible for licensure by the State of Texas.

(d) Journeyman Plumber. Each applicant must:

(1) be a high school graduate or hold a General Equivalency Diploma (GED); and

(2) be a citizen or national of the United States or an alien or non-immigrant eligible for licensure by the State of Texas.

(3) have either of the following:

(A) Plumber's Apprentice Registration or Tradesman Plumber-Limited Licensee and at least 8,000 hours of experience working at the trade under the supervision of a Master Plumber, as verified by employers; or

(B) a valid Journeyman License from another state and at least 8,000 hours of experience working at the trade under the supervision of a Master Plumber.

(4) meet the minimum trade experience requirements set forth in subparagraphs (A)-(F) of this paragraph.

(A) 2,000 hours in the installation or repair of piping for waste and vent drainage systems. During this period an individual should obtain the proper knowledge and skill to install or repair different types of materials used in residential or commercial plumbing systems, e.g., cast iron, plastics, copper.

(B) 2,000 hours in the installation or repair of piping for domestic hot and cold water systems. During this period an individual should obtain the proper knowledge and skill to install or repair different types of materials used in residential or commercial plumbing systems, e.g., cast iron, plastics, copper, steel and understand the function, difference, and proper installation of various valves, e.g., gate, globe, mixing, etc.

(C) 2,000 hours in the installation or repair of fixtures and equipment common to residential or commercial plumbing systems. During this period an individual should obtain the proper knowledge and skill to install or repair different types of products used, e.g., water heaters, natural and L.P. gas fired equipment, plumbing fixtures, faucets, water softeners and similar equipment and understand the proper method for sizing and installation of gas appliance vents.

(D) 500 hours in the installation or repair of Piping Hangers and Pipe Support systems. During this period an individual should obtain the proper knowledge and skill to install different types of hangers for piping support.

(E) 1,000 hours in the installation or repair of Special Plumbing systems. During this period an individual should obtain the proper knowledge and skill regarding medical gas systems, decorative fountains, lawn irrigation systems and solar panels.

(F) 500 hours of understanding and implementing the Americans with Disabilities Act. During this period an individual should become knowledgeable in model plumbing codes and job safety and OSHA requirements as they apply to the plumbing profession.

(e) Tradesman Plumber-Limited Licensee. Each applicant must:

(1) be a citizen or national of the United States or an alien or non-immigrant eligible for licensure by the State of Texas; and

(2) have either of the following:

(A) Plumber's Apprentice Registration and have completed at least 4,000 hours of experience working at the trade as a Registered Plumber's Apprentice under the direct supervision of a Journeyman or Master Plumber, as verified by employers; or

(B) a valid Journeyman or Master License from another state and at least 4,000 hours of experience working at the trade under the supervision of a Master Plumber.

(f) Plumbing Inspector. Each applicant must:

(1) be a citizen or national of the United States or an alien or non-immigrant eligible for licensure by the State of Texas;

(2) be a high school graduate or hold a General Equivalency Diploma (GED) and

(3) have one of the following:

(A) a Journeyman or Master Plumber License issued in the state of Texas;

(B) a Journeyman or Master Plumber License issued in another state, provided he or she passes the Texas State Board of Plumbing Examiners Journeyman exam;

(C) a Plumbing Inspector license issued by another state with licensing requirements substantially equivalent to the licensing requirements of the Texas State Board of Plumbing Examiners;

(D) a professional engineer or a professional architect license issued in this state;
or

(E) a total of 500 hours training or experience in the plumbing industry, that shall be credited by any combination of the following:

(i) 100 hours credit for successful completion of a certification in the Uniform Plumbing Code or the International Plumbing Code, issued by the International Association of Plumbing and Mechanical Officials (IAPMO), International Conference of Building Officials (ICBO), Building Officials and Code Administrators International (BOCA) or Southern Building Code Congress International (SBCCI) plumbing code certification;

(ii) 100 hours credit for successful completion of a Board approved Medical Gas Piping Installation Endorsement Training Program;

(iii) 50 hours credit for successful completion of a Board approved Water Supply Protection Specialist Endorsement Training Program;

(iv) 100 hours credit for successful completion of an approved Backflow Tester Certification program;

(v) 6 hours credit for successful completion each different Board approved Continuing Professional Education for Licensed Plumbers and Plumbing Inspectors Course;

(vi) actual hours, with a maximum of 100 hours credit for approved, documented and verified plumbing related training academy or educational sessions;

(vii) actual hours, with a maximum of 200 hours credit for on the job work experience in the plumbing trade or approved similar plumbing related trade, as verified by former employers; or

(viii) actual hours, with a maximum of 200 hours credit for documented and verified on the job training in the enforcement of plumbing codes under the direct supervision of a Licensed Plumbing Inspector.

(g) Medical Gas Piping Installation Endorsement. Each applicant must:

- (1) hold a current Journeyman or Master Plumber License; and
- (2) have successfully completed a Board approved training program in medical gas piping installation which includes the standards contained in the latest edition of the National Fire Protection Association (NFPA) 99C Gas and Vacuum Systems.

(h) Water Supply Protection Specialist Endorsement. Each applicant must:

- (1) hold a current Journeyman or Master Plumber License;
- (2) have successfully completed a Board approved training program in backflow prevention; and
- (3) have successfully completed a Board approved training program designed around the Federal Safe Drinking Water Act and the Federal Clean Water Act, on-site wastewater and site evaluations and graywater re-use, water quality training and water treatment, water utilities systems and regulations, water conservation, xeriscape irrigation, fire protection systems, and state laws regulating lead contamination in drinking water.

(i) Residential Utilities Installer. Each Applicant must:

- (1) be a citizen or national of the United States or an alien or non-immigrant eligible for licensure by the State of Texas;
- (2) be registered as a Plumber's Apprentice;
- (3) have completed at least 2,000 hours working at the trade as a Registered Plumber's Apprentice; and
- (4) complete a Board approved training program:
 - (A) after registering as a Residential Utilities Installer and prior to March 1, 2003;or
 - (B) prior to registering as a Residential Utilities Installer, if registering after March 1, 2003.

(j) Drain Cleaner. Each Applicant must:

- (1) be a citizen or national of the United States or an alien or non-immigrant eligible for licensure by the State of Texas;
- (2) be registered as a Plumber's Apprentice;
- (3) have completed at least 4,000 hours working at the trade as a Drain Cleaner-Restricted Registrant; and
- (4) complete a Board approved training program:
 - (A) after registering as a Drain Cleaner and prior to March 1, 2003; or
 - (B) prior to registering as a Drain Cleaner, if registering after March 1, 2003.

(k) Drain Cleaner-Restricted Registrant. Each Applicant must:

- (1) be a citizen or national of the United States or an alien or non-immigrant eligible for licensure by the State of Texas;
- (2) be registered as a Plumber's Apprentice;
- (3) complete a Board approved training program:
 - (A) after registering as a Drain Cleaner and prior to March 1, 2003; or
 - (B) prior to registering as a Drain Cleaner, if registering after March 1, 2003.

(l) Plumber's Apprentice. Each applicant must:

- (1) be a citizen or national of the United States or an alien or non-immigrant eligible for licensure by the State of Texas; and
- (2) be at least sixteen (16) years of age.

Source: The provisions of this §363.1 adopted to be effective May 18, 1982, 7 TexReg 1748; amended to be effective September 9, 1982, 7 TexReg 3143; amended to be effective September 1, 1983, 8 TexReg 3185; amended to be effective February 9, 1984, 9 TexReg 483; amended to be effective September 1, 1984, 9 TexReg 3250; amended to be effective August 25, 1993, 18 TexReg 5399; amended to be effective December 8, 1993, 18 TexReg 8785; amended to be effective February 14, 1994, 19 TexReg 717; amended to be effective April 15, 1994, 19 TexReg

2279; amended to be effective August 8, 1994, 19 TexReg 5709; amended to be effective October 12, 1994, 19 TexReg 7792; amended to be effective December 5, 1996, 21 TexReg 11485; amended to be effective April 9, 1998, 23 TexReg 3446; amended to be effective December 9, 1998, 23 TexReg 12304; amended to be effective June 1, 1999, 24 TexReg 4013; amended to be effective December 5, 2000, 25 TexReg 11939; amended to be effective January 30, 2001, 26 TexReg 972; amended to be effective December 30, 2001, 26 TexReg 10583.

Sec. 363.2. Consequences to the Applicant With Criminal Conviction

(a) Authority:

(1) Under the authority of Chapter 53 and Chapter 1301, §1301.4521 of the Occupations Code, the Board may suspend, probate a suspension of, or revoke a registration, license or endorsement, disqualify a person from receiving a registration, license or endorsement, or deny to a person the opportunity to take a licensing or endorsement examination on the grounds that the person has been convicted of a felony or misdemeanor that directly relates to the duties and responsibilities of the occupation of registered and licensed individuals performing plumbing and plumbing inspections.

(2) Under the authority of §411.122 of the Government Code (as amended by HB 660, 78th Legislature), the Board may access the criminal history record information maintained by the Department of Public Safety and the Federal Bureau of Investigation, including the National Crime Information Center database. The Board may charge a fee to applicants for a registration, license or endorsement to recover its costs to obtain the information.

(b) Currently Incarcerated Applicants: The Board shall not issue a registration, license, or endorsement to an applicant and shall revoke the registration, license and endorsement of an individual if the applicant or individual is incarcerated due to a felony conviction, felony community supervision revocation, revocation of parole, or revocation of mandatory supervision.

(c) Factors in Determining Whether Conviction Relates to Occupation: In determining whether a criminal conviction directly relates to the occupation of registered and licensed individuals performing plumbing or plumbing inspections, the Board shall consider:

(1) the nature and seriousness of the crime;

(2) the relationship of the crime to the purposes for requiring a license or registration to engage in plumbing or plumbing inspections;

(3) the extent to which a license or registration might offer an opportunity to engage in further criminal activity of the same type as that in which the person previously had been involved; and

(4) the relationship of the crime to the ability, capacity, or fitness required to perform the duties and discharge the responsibilities of registered and licensed individuals performing plumbing or plumbing inspections.

(d) Additional Factors for the Board to Consider: In determining the fitness of a person who has been convicted of a crime to perform the duties and discharge the responsibilities of registered and licensed individuals performing plumbing or plumbing inspections, the licensing authority shall consider, in addition to the factors listed in §363.2(c):

(1) the extent and nature of the person's past criminal activity;

(2) the age of the person when the crime was committed;

(3) the amount of time that has elapsed since the person's last criminal activity;

(4) the amount of time that has elapsed since the person's release from incarceration;

(5) the conduct and work activity of the person before and after the criminal activity;

(6) evidence of the person's rehabilitation or rehabilitative effort while incarcerated or after release; and

(7) other evidence of the person's fitness, including letters of recommendation signed by the person making the recommendation from:

(A) prosecutors and law enforcement and correctional officers who prosecuted, arrested, or had custodial responsibility for the person;

(B) the sheriff or chief of police in the community where the person resides;

(C) current and previous employers stating that the employer has specific and complete knowledge of the applicant's criminal history and stating the reasons that the employer is recommending that the applicant be considered fit and not a threat to the public's health, safety and welfare; and

(D) any other person in contact with the convicted person.

(e) Responsibilities of the Applicant:

(1) The applicant has the responsibility to obtain and provide to the Board, the recommendations of the prosecution, law enforcement, correctional authorities, employers and others as specified by §363.2(d)(7).

(2) The applicant shall furnish proof in the form required by the Board that the applicant has:

(A) maintained a record of steady employment by submitting employment records and verification from employers;

(B) supported the applicant's dependents, if any, including records of court mandated child support payments, if applicable;

(C) maintained a record of good conduct;

(D) paid all outstanding court costs, supervision fees, fines, and restitution ordered in any criminal case in which the applicant has been convicted; and

(E) successfully completed all court ordered or voluntary rehabilitation classes, courses or programs.

(3) The applicant shall submit to the Board a fully completed Supplemental Criminal History Information Form signed by the applicant.

(4) If the applicant has a conviction of a sexual nature, the applicant shall obtain and provide to the Board the written results of recently performed standard, nationally recognized testing and evaluations of the applicant, performed by a licensed professional therapist or counselor who is certified as a Registered Sex Offender Treatment Provider in the State of Texas, to determine the level of likelihood for the applicant to commit future crimes of a sexual nature.

(5) If required by the Board, the applicant shall meet all requirements necessary in order for the Board to access the criminal history record information under §363.2(a)(2), including submitting fingerprint information and paying the required fees.

(f) Proceedings Governed by Administrative Procedure Act: A proceeding before the Board to establish factors required to be considered in determining the fitness of a person who has been convicted of a crime is governed by Chapter 2001, Government Code.

(g) Guidelines to Determine Fitness: The Board shall issue guidelines relating to determining the fitness of a person who has been convicted of a crime to perform the duties and discharge the responsibilities of registered and licensed individuals performing plumbing or plumbing inspections. The guidelines must state the reasons a particular crime is considered to relate to a particular registration, license or endorsement and any other criterion that affects the decisions of the Board.

(1) The Board shall file the guidelines with the Secretary of State for publication in the Texas Register.

(2) Amendments to the guidelines, if any, shall be issued at least annually.

(h) Enforcement Committee Review of Application: The Enforcement Committee may approve, without Board approval, the application for a license, endorsement, or registration of a person who has a criminal conviction, if the Enforcement Committee finds that the criminal conviction does not directly relate to the duties and responsibilities of the business of plumbing in accordance with the Board's rules and the guidelines adopted under §363.2(g). An applicant who has a criminal conviction may be requested to appear before the Enforcement Committee to present information relating to the applicant's criminal conviction.

(1) If the Enforcement Committee determines that an applicant is ineligible for a license, endorsement, or registration based on the applicant's criminal conviction, the Enforcement Committee shall give timely notice of the denial to the applicant to the applicant's last known address on file with the Board.

(2) The notice shall include the denied applicant's right to request, within 20 days of the mailing of the notice of denial, a hearing before an administrative law judge of the State Office of Administrative Hearings to review the Enforcement Committee's determination.

(A) Failure by the denied applicant to request a hearing under §363.2(h)(2) within 20 days of the mailing of the notice of denial renders the Enforcement Committee's decision final and;

(B) the denied applicant may not apply for a new registration, license or endorsement before the first anniversary date of the final denial.

(3) If the denied applicant requests a hearing under §363.2(h)(2) and after receipt of the administrative law judge's proposed findings of fact and conclusions of law, the Board shall determine the applicant's eligibility. The Board shall provide an applicant who is denied a registration, license or endorsement a written statement containing:

(A) the reason for the suspension, revocation, denial, or disqualification;

(B) the judicial review procedure provided by §363.2(i); and

(C) the earliest date the person may appeal the action of the licensing authority.

(4) If the applicant is denied as a result of a hearing requested under §363.2(h)(2), the applicant may not apply for a new registration, license or endorsement before the first anniversary date of the final denial.

(i) Judicial Review: A person whose license has been suspended or revoked or who has been denied a license or the opportunity to take an examination due to the person's criminal conviction and who has exhausted the person's administrative appeals may:

(1) file an action in the district court in Travis County for review of the evidence presented to the Board and the decision of the Board; and

(2) the petition for an action under this subsection must be filed not later than the 30th day after the date the Board's decision is final and eligible to be appealed.

Source: The provisions of this §363.2 adopted to be effective May 18, 1982, 7 TexReg 1748; amended to be effective September 1, 1984, 9 TexReg 3250; amended to be effective August 25, 1993, 18 TexReg 5399; amended to be effective January 30, 2001, 26 TexReg 973; amended to be effective November 4, 2003, 28 TexReg 9537.

Sec. 363.3. Examination Schedule.

The board shall conduct examinations on a regular basis according to demand and furnish on request information giving the time, date, and place of examinations.

Source: The provisions of this §363.3 adopted to be effective May 18, 1982, 7 TexReg 1748; amended to be effective August 25, 1993, 18 TexReg 5399.

Section 363.4. Reporting for Examination.

- (a) Each Applicant must report promptly at the place of the examination.
- (b) If an Applicant is scheduled for an examination and cannot appear, the applicant must notify the Texas State Board of Plumbing Examiners in writing, postmarked no later than ten (10) business days before the scheduled examination date. An Applicant who fails to appear or does not give the required ten (10) business days notice shall forfeit the examination fee and must re-apply with a new application and fee.
- (c) An Applicant is allowed one emergency reschedule without having to re-apply with a new application and fee. An Applicant must request the emergency reschedule in writing with an explanation of the emergency, postmarked no later than 5 (five) business days after the examination date. Business or work schedule conflicts are not considered emergencies. If the Applicant does not reschedule the examination within the 5 (five) business days after the examination date, the Applicant must re-apply with a new application and fee.
- (d) The following are considered excused emergencies:
 - (1) Death in family;
 - (2) Illness or hospitalization of Applicant or Applicant's immediate family;
 - (3) Automobile accident on day of the examination;
 - (4) Other reasons approved by the Chief Examiner.
- (e) Emergencies will be subject to verification by the Chief Examiner.

Source: The provisions of this §363.4 adopted to be effective May 18, 1982, 7 TexReg 1748; amended to be effective August 25, 1993, 18 TexReg 5399; amended to be effective June 15, 1998, 23 TexReg 6226; amended to be effective January 30, 2001, 26 TexReg 973.

Section 363.5. Description of Examination.

For each License and Endorsement category, the Board shall conduct a uniform examination that shall include written and practical applications as deemed appropriate by the Board. The Board shall furnish applicants with information titled "General Examination Data" explaining the scope of the examination.

Source: The provisions of this §363.5 adopted to be effective May 18, 1982, 7 TexReg 1748; amended to be effective August 25, 1993, 18 TexReg 5399; amended to be effective December 8, 1993, 18 TexReg 8785; amended to be effective August 8, 1994, 19 TexReg 5710; amended to be effective June 7, 1996, 21 TexReg 4687; amended to be effective January 30, 2001, 26 TexReg 973.

Sec. 363.6. Special Examination Conditions.

- (a) The Board, in its discretion, may waive the requirement that an individual hold a Journeyman License for one year prior to eligibility for a Master License, or any examination or registration requirement not required by law, after consideration of a written request for an exemption due to hardship. The written request must fully detail why the requirement/s create a hardship. If applicable to the request, the individual requesting the waiver must complete the Application for Nonstandard Testing Accommodations and the Physician or Licensed Health Care Provider form. Generally, the Board may consider the waiver only if circumstances due to the withholding of the master license or examination would endanger the public health, safety, or welfare of the state.
- (b) The Board may waive any licensing requirement not required by law after consideration of a written request from the holder of a current plumbing license from another state having license requirements substantially equivalent to those of this state. It is the responsibility of the requestor to provide documentation to prove that the requirements are substantially equivalent.

(c) The Board, on request, may conduct examinations with special accommodations for individuals who have a disability. All individuals who wish to take an examination with special accommodations must complete the Application for Non-Standard Testing Accommodations, including the Physician or Licensed Health Care Provider form. The Board shall reserve the right to make all final decisions regarding accommodations and it may require a consultation by experts for a second opinion, if it determines that it is necessary for a particular applicant.

Source: The provisions of this §363.6 adopted to be effective May 18, 1982, 7 TexReg 1748; amended to be effective August 25, 1993, 18 TexReg 5399; amended to be effective August 8, 1994, 19 TexReg 5710; amended to be effective June 7, 1996, 21 TexReg 4687; amended to be effective December 9, 1998, 23 TexReg 12304; amended to be effective December 30, 2001, 26 TexReg 10583.

Sec. 363.7. Test Score Requirements.

The board may set and adjust minimum passing scores as it deems appropriate for each license or endorsement category examination.

Source: The provisions of this §363.7 adopted to be effective May 18, 1982, 7 TexReg 1748; amended to be effective August 25, 1993, 18 TexReg 5399; amended to be effective December 8, 1993, 18 TexReg 8785.

Sec. 363.8. Notification.

The Board shall notify applicants of their examination results within 30 days after the examination is administered, and, if requested within two weeks of notification, shall provide an applicant with an analysis of the applicant's examination performance.

Source: The provisions of this §363.8 adopted to be effective May 18, 1982, 7 TexReg 1748; amended to be effective August 25, 1993, 18 TexReg 5399; amended to be effective January 30, 2001, 26 TexReg 974.

Sec. 363.9. Reexamination.

(a) Any applicant that fails only one part of a multiple part examination and passes all other parts of the same examination may retake the one part that was failed, without having to retake the entire examination, subject to the following conditions:

- (1) A passing score is a score of at least 70 points,
- (2) A failing score is a score of 69.9 points or less,
- (3) A time limit of three hours is allotted for reexamination of the one failed part,
- (4) The full examination fee must be submitted with the application for reexamination.

(b) Any applicant that fails more than one part of a multiple part examination must schedule to retake the entire examination.

(c) In cases of examination failure (all or part), the Board shall require the following before the applicant retakes a regularly scheduled examination:

- (1) First failure: a 30-day training period,
- (2) Second failure: a 60-day training period,
- (3) Third and subsequent failures: a 90-day training period.

Source: The provisions of this §363.9 adopted to be effective May 18, 1982, 7 TexReg 1748; amended to be effective August 25, 1993, 18 TexReg 5399; amended to be effective December 8, 1993, 18 TexReg 8785; amended to be effective December 9, 1998, 23 TexReg 12304; amended to be effective January 30, 2001, 26 TexReg 974.

Sec. 363.10. Disqualification.

The Board may deny an Applicant eligibility to be registered or to take an examination if it discovers that the Applicant furnished false information on the application or used any fraudulent means of establishing qualifications. The Board may initiate disciplinary action against any Applicant, Registrant or Licensee who furnishes false information on any certifications, other forms, or renewals distributed by the Board.

Source: The provisions of this §363.10 adopted to be effective May 18, 1982, 7 TexReg 1748; amended to be effective August 25, 1993, 18 TexReg 5399; amended to be effective August 7, 1995, 20 TexReg 5502; amended to be effective December 30, 2001, 26 TexReg 10583.

Section 363.11. Endorsement Training Programs.

(a) Medical Gas Piping Installation Endorsement training programs

(1) Any person wishing to offer a training program in medical gas piping installation to the public must meet criteria as prescribed by the Board, including the standards contained in the latest edition of the National Fire Protection Association (NFPA) 99C Gas and Vacuum Systems. Instructors shall be employed by a program that meets certification requirements of the Board. Such persons shall provide lesson plans and instructor credentials for Board approval. Approved providers of medical gas training shall furnish a program consisting of a classroom presentation of course material, a test of the enrollee's comprehension of the matter, a shop demonstration of the proper brazing procedures by the instructor, and the enrollee's final brazing evidence to the instructor of an accepted vertical and horizontal practice coupon. A minimum of twenty four (24) hours shall be assigned for the classroom presentation and testing. In addition, a minimum of four (4) hours shall be assigned to the brazing demonstrations. The student enrolled in medical gas training will have completed a minimum of eight hours of practice brazing coupons in an equipped shop. These coupons will be presented to the instructor for grading. The aforementioned hours represent the minimum requirements only; additional time may be included in each segment of the program.

(2) Training programs in Medical Gas Piping Installation shall be reviewed at least annually by the Board to ensure that programs have been provided equitably across the State of Texas.

(3) Periodically, the Board shall review training programs in medical gas piping installation for quality in content and instruction in accordance with the standards contained in the latest edition of the National Fire Protection Association (NFPA) 99C Gas and Vacuum Systems.

(4) Instructors in medical gas piping installation will be a Licensee of the Board with a Medical Gas Piping Installation Endorsement. Instructors will be required to successfully complete a Board approved program of 160 hours which meets the following generic criteria:

(A) 40 hours to provide the instructor with the basic educational techniques and instructional strategies necessary to plan and conduct effective training programs.

(B) 40 hours to provide the instructor with the basic techniques and strategies necessary to analyze, select, develop, and organize instructional material for effective training programs.

(C) 40 hours to provide the instructor with the basic principles, techniques, theories, and strategies to establish and maintain effective relationships with students, co-workers, and other personnel in the classroom, industry, and community.

(D) 40 hours to provide the instructor with the basic principles, techniques, theories, and strategies to communicate effectively with the use of instructional media.

(5) To maintain his/her status as an approved instructor of medical gas piping installation training, the instructor shall undergo one of the aforementioned training programs every twelve (12) months such that the entire training (160 hours) is completed within four years.

(6) Each approved provider must notify the Board thirty (30) days before conducting classes; the notice shall contain the date(s), time(s) and place(s) where the classes will occur.

(7) Each approved provider will perform self-monitoring and reporting as required by the Board.

(b) Water Supply Protection Specialist Endorsement training programs

(1) Any person wishing to offer a Board approved training program in Water Supply Protection Specialist Endorsement to the public must meet criteria as prescribed by the Board. Instructors shall be employed by a program that meets certification requirements of the Board. Such persons shall provide lesson plans and instructor qualifications for Board approval. The Board shall provide a course outline and the required minimum hours.

(2) Periodically, the Board shall review Board approved training programs in Water Supply Protection Specialist Endorsement for quality in content and instruction and ensure that programs have been provided equitably across the State of Texas.

(3) Instructors in water supply protection will be required to pass the Board examination in water supply protection and be a Licensee of the Board with a Water Supply Protection Specialist Endorsement. Instructors will be required to successfully complete a Board approved program of 160 hours which meets the following generic criteria.

(A) 40 hours to provide the instructor with the basic educational techniques and instructional strategies necessary to plan and conduct effective training programs.

(B) 40 hours to provide the instructor with the basic techniques and strategies necessary to analyze, select, develop, and organize instructional material for effective training programs.

(C) 40 hours to provide the instructor with the basic principles, techniques, theories, and strategies to establish and maintain effective relationships with students, co-workers, and other personnel in the classroom, industry, and community.

(D) 40 hours to provide the instructor with the basic principles, techniques, theories, and strategies to communicate effectively with the use of instructional media.

(4) To maintain his/her status as an approved instructor of Water Supply Protection Specialist Endorsement training, the instructor shall undergo one of the aforementioned training programs every twelve (12) months such that the entire training (160 hours) is completed within four years.

(5) Each approved provider must notify the Board thirty (30) days before conducting classes; the notice shall contain the date(s), time(s) and place(s) where the classes will occur.

(6) Each approved provider will perform self-monitoring and reporting as required by the Board.

Source: The provisions of this §363.11 adopted to be effective December 8, 1993, 18 TexReg 8785; amended to be effective April 15, 1994, 19 TexReg 2279; amended to be effective June 2, 1994, 19 TexReg 3930; amended to be effective August 8, 1994, 19 TexReg 5710; amended to be effective October 12, 1994, 19 TexReg 7793; amended to be effective August 7, 1995, 20 TexReg 5502; amended to be effective June 7, 1996, 21 TexReg 4687; amended to be effective April 9, 1998, 23 TexReg 3446; amended to be effective January 30, 2001, 26 TexReg 975.

Chapter 365 Licensing and Registration

Sec. 365.1. License and Registration Categories; Description; Scope of Work Permitted.

The Board shall establish four separate license categories, two endorsement categories and four registration categories, as described in paragraphs (1) - (10) of this section.

(1) **Master Plumber**--a license that entitles the individual to perform plumbing work, enter into contracts or agreements to perform plumbing work for the general public and to secure permits to perform plumbing work.

(2) Journeyman Plumber--a license that entitles the individual to do plumbing work only under the general supervision of Master plumbers and only under contracts or agreements to perform plumbing work secured by Master Plumbers.

(3) Medical Gas Piping Installation Endorsement--an endorsement to a Journeyman or Master Plumber license entitling the individual to install piping that is used solely to transport gases used for medical purposes, including, but not limited to oxygen, nitrous oxide, medical air, nitrogen and medical vacuum.

(4) Plumbing Inspector--a license that entitles the individual to do plumbing inspections as an employee or independent contractor of a political subdivision for compliance with health and safety laws and ordinances.

(5) Water Supply Protection Specialist--an endorsement to a Journeyman or Master Plumber License certifying the individual to perform Customer Service Inspections as defined in the Texas Commission on Environmental Quality Rules and Regulations for Public Water Systems. A Water Supply Protection Specialist Endorsement shall not be used in lieu of a Plumbing Inspector License as required under §1301.351 of the Plumbing License Law to perform plumbing inspections required under §1301.255 and §1301.551 of the Plumbing License Law.

(6) Tradesman Plumber-Limited Licensee--a license that entitles the individual to construct and install plumbing for only one or two family dwellings, only under the supervision of Master Plumbers and only under contracts or agreements to perform plumbing work secured by Master Plumbers.

(7) Residential Utilities Installer--a registration that entitles the individual to construct and install yard water service piping and building sewers for only one or two family dwellings, only under the supervision of Master Plumbers and only under contracts or agreements to perform plumbing work secured by Master Plumbers.

(8) Drain Cleaner--a registration that entitles the individual to install cleanouts and remove and reset p-traps for the purposes of eliminating obstructions in building drains and sewers, only under the supervision of Master Plumbers and only under contracts or agreements to perform plumbing work secured by Master Plumbers.

(9) Drain Cleaner-Restricted Registrant--a registration that entitles the individual to clear obstructions in sewer and drain lines only through any existing code-approved opening, only under the supervision of Master Plumbers and only under contracts or agreements to perform plumbing work secured by Master Plumbers.

(10) Plumber's Apprentice--a registration that entitles the individual to, as his or her principal occupation, to engage in learning and assisting in the installation of plumbing, only under the supervision of a Master Plumber and the direct supervision of a licensed plumber and only under contracts or agreements to perform plumbing work secured by Master Plumbers.

Source: The provisions of this §365.1 adopted to be effective May 18, 1982, 7 TexReg 1748; amended to be effective September 9, 1982, 7 TexReg 3143; amended to be effective September 1, 1983, 8 TexReg 3186; amended to be effective June 2, 1987, 12 TexReg 1661; amended to be effective August 25, 1993, 18 TexReg 5399; amended to be effective December 8, 1993, 18 TexReg 8786; amended to be effective August 8, 1994, 19 TexReg 5710; amended to be effective June 7, 1996, 21 TexReg 4688; amended to be effective January 31, 1999, 24 TexReg 557; amended to be effective December 18, 2000, 25 TexReg 12386; amended to be effective December 30, 2001, 26 TexReg 10587; amended to be effective November 8, 2004, 29 TexReg 10266.

Sec. 365.2. Exemptions.

The following plumbing work shall be permitted without a license but shall be subject to inspection and approval in accordance with local, city or municipal ordinances:

- (1) Plumbing work done by a property owner in the property owner's homestead;
- (2) Plumbing work that is not performed in conjunction with new construction and done on a property that is:
 - (A) located in a subdivision or on a tract of land that is not required to be platted under §232.0015, Local Government Code; or
 - (B) not connected to a public water system and is located outside a municipality, or
 - (C) located outside a municipality and connected to a public water system that does not require a license to perform plumbing; or
 - (D) inside a municipality with fewer than 5,000 inhabitants, unless an ordinance of the municipality requires the person to be licensed;
- (3) Verification of medical gas and vacuum piping integrity and content;
- (4) Work done on existing plumbing by a maintenance man or maintenance engineer, as defined in Board Rule §361.1, that is incidental or connected to other maintenance duties, provided that such an individual does not engage in cutting into fuel gas plumbing systems, the installation of gas fueled water heaters or plumbing work for the general public;
- (5) Plumbing work done by a railroad employee on the premises or equipment of a railroad, provided such an individual does not engage in plumbing work for the general public;
- (6) Plumbing work done by a person engaged by a public utility company to:
 - (A) lay, maintain, or operate its service mains or lines to the point of measurement; and
 - (B) install, change, adjust, repair, remove or renovate appurtenances, equipment, or appliances;
- (7) Appliance installation or appliance service work done by bona fide appliance dealers and their employees that do not offer to perform plumbing work to the general public, in connecting appliances to existing openings with a code approved appliance connector without cutting into or altering the existing plumbing system;
- (8) Irrigation work done by an individual working and licensed by the Texas Commission on Environmental Quality under Chapter 1903, Occupations Code, as an irrigator or installer;
- (9) LP Gas service and installation work done by an individual working and licensed by the Texas Railroad Commission under Chapter 113 of the Natural Resources Code as a LP Gas Installer; and
- (10) Water Treatment Specialists licensed by the Texas Commission on Environmental Quality under §341.034 of the Health and Safety Code may engage in residential, commercial or industrial water treatment activities including making connections necessary to complete the installation of a water treatment system.
- (11) Water well pump installation and service work performed by an individual licensed by the Texas Commission on Environmental Quality under Chapter 1902 of the Occupations Code.
- (12) Residential potable water supply or residential sanitary sewer connections performed by an organization certified by the Texas Commission on Environmental Quality to perform self-help project assistance on a Self-Help Project which complies with §1301.057 of the Occupations Code (Plumbing License Law).

Source: The provisions of this §365.2 adopted to be effective February 12, 2004, 29 TexReg 1200.

Sec. 365.4. Issuance.

(a) The Board shall promptly issue a license, registration or endorsement to qualified applicants. However, the Board may withhold the license, registration or endorsement and require reexamination of any applicant who has not remitted the appropriate licensing fee within 90 days of completion of the examination.

(b) Within one year from the date of passing the Plumbing Inspector's examination, a political subdivision must submit proof to the Board of the individual's employment or contract with the political subdivision as a Plumbing Inspector with the appropriate licensing fee. If the individual does not comply with this requirement, he/she must undergo reexamination to be eligible for licensing as a Plumbing Inspector.

(c) Licenses, endorsements and registrations issued by the Board shall be valid throughout the state, but shall not be assignable or transferable.

Source: The provisions of this §365.4 adopted to be effective May 18, 1982, 7 TexReg 1748; amended to be effective December 8, 1993, 18 TexReg 8786; amended to be effective October 12, 1994, 19 TexReg 7793; amended to be effective December 18, 2000, 25 TexReg 12387; amended to be effective December 30, 2001, 26 TexReg 10587

Sec. 365.5. Renewals.

(a) The Board shall inform a licensee or registrant of the impending expiration of a license, registration or endorsement by sending written notice at least 30 days before its expiration date to the licensee's last known mailing address according to Board records.

(b) A licensee or registrant may renew an unexpired license, registration or endorsement before its expiration date by meeting all renewal requirements and paying the fee required by the Board.

(c) The licensee's or registrant's failure to receive the notice of expiration will not alter the licensee's or registrant's responsibility to renew the license or registration each year or endorsement every three years by its expiration date.

(d) Any Journeyman Plumber, Master Plumber, Tradesman Plumber-Limited Licensee or Plumbing Inspector wishing to renew a license must have proof submitted to the Board of successful completion of the required continuing professional education (CPE) course or courses, subject to the additional requirement in subsection (e) of this section.

(e) Any license holder with a medical gas endorsement must complete a Board approved medical gas continuing professional education class within the three-year period of the endorsement. The classroom hours shall consist of instruction of the most current edition of the National Fire Protection Association (NFPA) 99C, Standard on Gas and Vacuum Systems, and the changes therein. No license holder with a medical gas endorsement may count the same medical gas continuing professional education class twice towards meeting the continuing professional education requirements for renewal of the medical gas endorsement on a plumbing license.

(f) Any license or endorsement holder who lives in a county having no city with a population in excess of 100,000, or resides out of state, or who submits written proof to the Board from a physician stating the medical reason that the licensee is unable to attend a CPE class, may fulfill the continuing professional education requirements by completing a correspondence course approved by the Board.

(g) A person who holds a license and is:

(1) a member of the United States armed forces, a reserve component of the United States armed forces or the state military forces;

(2) is ordered to active duty by proper authority; and

(3) submits documentation acceptable to the Board which demonstrates the person was unable to renew the license in a timely manner due to the active duty service is:

- (A) exempt from paying a late renewal fee; and
 - (B) entitled to an additional amount of time, equal to the total number of years or parts of years that the person serves on active duty, to complete any continuing education requirements and any other requirements related to the renewal of the person's license.
- (h) Under §1301.404(f) of the Plumbing License Law, the following individuals may be credited as having fulfilled their continuing professional education (CPE) requirements for the current CPE course year, in order to renew a license issued by the Board:
- (1) Any CPE Course Instructor who is fully approved under §365.14 of this chapter; and
 - (2) any employee of the Board who:
 - (A) monitors a current CPE class for compliance with the Plumbing License Law and Board Rules; or
 - (B) reviews all approved Course Materials under §365.14 of this chapter and completes the current Course Instructor Certification Workshop conducted by the Board.

Source: The provisions of this §365.5 adopted to be effective May 18, 1982, 7 TexReg 1748; amended to be effective August 25, 1993, 18 TexReg 5399; amended to be effective December 8, 1993, 18 TexReg 8786; amended to be effective April 15, 1994, 19 TexReg 2280; amended to be effective June 7, 1996, 21 TexReg 4688; amended to be effective December 5, 1996, 21 TexReg 11485; amended to be effective April 9, 1998, 23 TexReg 3446; amended to be effective October 11, 1998, 23 TexReg 9979; amended to be effective December 18, 2000, 25 TexReg 12388; amended to be effective December 30, 2001, 26 TexReg 10587; amended to be effective October 30, 2007, 32 TexReg 7688; amended to be effective February 2, 2009, 34 TexReg 596.

Sec. 365.6. Expirations.

- (a) Any license or registration not properly renewed each year or any endorsement not properly renewed every three years by its expiration date will become invalid on that date and remain invalid until all renewal requirements are met.
- (b) An individual whose license, registration or endorsement has been expired for 90 days or less may renew the license, registration or endorsement by meeting all renewal requirements, paying the Board the scheduled renewal fee and an additional fee equal to one-half the amount of the examination or registration fee for the license, registration or endorsement.
- (c) An individual whose license, registration or endorsement has been expired for over 90 days but less than two years may renew the license, registration or endorsement by meeting all renewal requirements and paying the Board a sum equal to all unpaid renewal fees plus the examination or registration fee required for the license, registration or endorsement.
- (d) No individual may renew a license, registration or endorsement that has been expired for two or more years; however, in such cases an individual can apply for a new license or endorsement by taking the current examination and paying the current fees. An individual may apply for a new Registration by meeting the requirements and procedures for obtaining an original registration and paying the current fees.
- (e) Continuing professional education requirements must be satisfied prior to the renewal of any expired license.

Source: The provisions of this §365.6 adopted to be effective May 18, 1982, 7 TexReg 1748; amended to be effective September 1, 1983, 8 TexReg 3186; amended to be effective August 25, 1993, 18 TexReg 5399; amended to be effective December 8, 1993, 18 TexReg 8786; amended to be effective June 7, 1996, 21 TexReg 4688; amended to be effective December 18, 2000, 25 TexReg 12388; amended to be effective December 30, 2001, 26 TexReg 10587.

Sec. 365.7. Duplicate License.

The Board shall issue a duplicate license or registration to replace any license or registration lost, destroyed, or mutilated upon receipt of an application for the duplicate, stating the reasons for the request, together with the appropriate fee.

Source: The provisions of this §365.7 adopted to be effective May 18, 1982, 7 TexReg 1748; amended to be effective August 25, 1993, 18 TexReg 5399; amended to be effective December 30, 2001, 26 TexReg 10587

Sec. 365.8. Change of Name or Address.

(a) Each licensee and registrant shall inform the Board in writing of any changes in name or address. After receiving the notification of change of name, together with the appropriate fee, the Board shall issue a new license or registration reflecting the change.

(b) Each Plumbing Inspector shall inform the Board in writing of each political subdivision that the Plumbing Inspector is employed by or has contracted with, for the purposes of performing plumbing inspections and any changes in contract or employment status within thirty days of status change. The written confirmation of contract or employment must be provided by an authorized representative of each political subdivision.

Source: The provisions of this §365.8 adopted to be effective May 18, 1982, 7 TexReg 1748; amended to be effective August 25, 1993, 18 TexReg 5399; amended to be effective December 18, 2000, 25 TexReg 12388; amended to be effective December 30, 2001, 26 TexReg 10587.

Sec. 365.9. Reprimand, Suspension, Revocation.

(a) As provided in the Act and in Texas Government Code, Section 2001, as amended, the Board shall reprimand a licensee, or registrant, or suspend or revoke his or her license or registration for obtaining a license, registration or endorsement through fraud, false information, or error, a violation of the Act, of these rules, of a Board order, or of local codes, ordinances, or standards of competency, in accordance with procedures set forth in the Act, the Government Code, and these rules.

(b) The Board shall institute an investigation upon receipt of a valid written complaint from any person or agency setting forth the details of alleged fraud, false information, error, or violation within the jurisdiction of the Board.

(c) An individual informed by the Board of proposed refusal, suspension, or revocation of a license, registration or endorsement is entitled to a hearing before the Board as described in these rules. In order to determine competency, plumbing examinations may be administered to licensees accused of incompetence or willful violation.

Source: The provisions of this §365.9 adopted to be effective May 18, 1982, 7 TexReg 1748; amended to be effective August 25, 1993, 18 TexReg 5399; amended to be effective December 8, 1993, 18 TexReg 8786; amended to be effective December 18, 2000, 25 TexReg 12389; amended to be effective December 30, 2001, 26 TexReg 10587.

Sec. 365.10. Application for License, Registration or Endorsement after Revocation.

Any individual whose license, registration or endorsement has been revoked may apply to the Board for a new license, registration or endorsement after a waiting period of at least one year from the date of revocation. The Enforcement Committee shall be delegated the authority of making the initial review of a previously revoked license or registration. If the committee decides to deny the application for a new license or registration, it shall proceed in the same manner it would if presented any other application it believes should be denied. If the committee makes a decision to approve the applicant's request, it must nonetheless be presented for approval before the Board members, at a regularly scheduled Board meeting to approve the applicant's request, if approved, then the applicant is to follow the same licensing or registration procedures required of a first-time licensee or registrant.

Source: The provisions of this §365.10 adopted to be effective May 18, 1982, 7 TexReg 1748; amended to be effective August 25, 1993, 18 TexReg 5399; amended to be effective December 8, 1993, 18 TexReg 8786; amended to be effective October 14, 1996, 21 TexReg 9446; amended to be effective December 30, 2001, 26 TexReg 10587.

Sec. 365.11.

Source: The provisions of this Section 365.2 repealed to be effective December 30, 2001, 26 TexReg 10592. 365.11 adopted to be effective May 18, 1982, 7 TexReg 1748; amended to be effective August 25, 1993, 18 TexReg 5399; amended to be effective April 15, 1994, 19 TexReg 2280; amended to be effective August 8, 1994, 19 TexReg 5711; amended to be effective February 5, 1998, 23 TexReg 755; amended to be effective December 18, 2000, 25 TexReg 12389; amended to be effective December 30, 2001, 26 TexReg 10591; §365.11 repealed to be effective February 12, 2004, 29 TexReg 1200.

Sec. 365.12.

Source: The provisions of this § 365.12 adopted to be effective May 18, 1982, 7 TexReg 1748; amended to be effective August 25, 1993, 18 TexReg 5399; amended to be effective August 8, 1994, 19 TexReg 5711; amended to be effective August 7, 1995, 20 TexReg 5504; amended to be effective February 5, 1998, 23 TexReg 755; amended to be effective June 1, 1999, 24 TexReg 4014; amended to be effective December 30, 2001, 26 TexReg 10591; § 365.12 repealed to be effective November 4, 2003, 28 TexReg 9538.

Sec. 365.13. Licensing of Guaranteed Student Loan Defaulters.

(a) The Board shall refuse to renew the license or registration of a licensee or registrant whose name is on the list of those who have defaulted on student loans published by the Texas Guaranteed Students Loan Corporation (hereinafter TGSLC) unless:

(1) the renewal is the first renewal following the Board's receipt of a TGSLC list including the licensee's or registrant's name among those in default; or

(2) the licensee or registrant presents to the Board a certificate issued by the TGSLC certifying that:

(A) the licensee or registrant has entered into a repayment agreement on the defaulted loan; or

(B) the licensee or registrant is not in default on a loan guaranteed by the Corporation.

(b) The Board may issue an initial license or registration to an individual on TGSLC's list of defaulters who meets all other qualifications for licensing but shall not renew the license or registration unless the licensee presents to the Board a certificate issued by the TGSLC certifying that:

(1) the licensee or registrant has entered into a repayment agreement on the defaulted loan; or

(2) the licensee or registrant is not in default on a loan guaranteed by the TGSLC.

(c) The Board shall not renew the license or registration of a licensee or registrant who defaults on a repayment agreement unless the individual presents to the Board a certificate issued by the TGSLC certifying that:

(1) the licensee or registrant has entered into another repayment agreement on the defaulted loan; or

(2) the licensee or registrant is not in default on a loan guaranteed by the TGSLC or on a repayment agreement.

(d) The Board will provide the licensee or registrant identified by the TGSLC as being in default with written notice of his or her default status at least 30 days before the expiration date of the license or registration to the last known mailing address according to the Board's records.

(e) An individual informed by the Board of his or her default status according to the TGSLC shall be provided an opportunity for a hearing, if requested by the licensee or registrant, in accordance with these rules.

Source: The provisions of this §365.13 adopted to be effective August 25, 1993, 18 TexReg 5399; amended to be effective December 18, 2000, 25 TexReg 12390; amended to be effective December 30, 2001, 26 TexReg 10587.

Sec. 365.14. Continuing Professional Education Programs.

(a) Course Materials--In preparation for the Continuing Professional Education course year, which begins on July 1, of each year, the Board will annually approve Course Materials to be used for the Continuing Professional Education (CPE) required for renewal of Journeyman Plumber, Master Plumber, Tradesman Plumber-Limited Licensee and Plumbing Inspector Licenses. The Course Materials are the printed materials that are the basis for a substantial portion of a CPE course and which are provided to the Licensees for use in the classroom, correspondence courses and future reference by the Licensees (students). The provider of Course Materials, Course Provider and Course Instructor shall encourage the student to retain the Course Materials for future reference and shall not purchase the used Course Materials from the student or otherwise offer any incentive to the student to not retain the Course Materials. Board approval of Course Materials will be subject to all of the terms and conditions of this Section. The following minimum criteria will be used by the Board in considering approval of Course Materials:

(1) The Course Materials will provide the basis for a minimum of six classroom hours of study. Three of the six hours will be in the subjects of health protection, energy conservation and water conservation, with the remaining three hours covering subjects which shall include information concerning the Act, Board Rules, current industry practices and codes, and subjects from lists of approved subjects published by the Board.

(2) The Board will periodically publish lists of approved subjects.

(3) The Course Materials must be presentations of relevant issues and changes within the subject areas as they apply to the plumbing practice in the current market or topics which increase or support the Licensee's development of skill and competence.

(4) The provider of the Course Materials must provide the Course Materials, as needed, in correspondence course form to comply with §1301.404(e) of the Act and subsection (b)(15)(L) of this section, which are to be made available for at least three (3) years or as necessary for renewal of an expired license.

(5) The Course Materials may not advertise or promote the sale of goods, products or services.

(6) The Course Materials must be printed and bound and, with the exception of the draft versions, must meet the following minimum technical specifications for printing and production:

(A) Binding--Perfect or Metal Coiled,

(B) Ink--Full Bleed Color,

(C) Cover Material--80 Pound Gloss Paper,

(D) Page Material--70 Pound

(7) The Course Materials will include Board forms used for doing business with licensees, registrants and the public. The Board forms shall be marked as being provided for example purposes only. Course Materials will provide information stating that the most current Board forms are available on the Board's website or by mail upon request.

(8) All Course Materials must have the following characteristics:

(A) Correct grammar, spelling and punctuation,

(B) Appropriate illustrations and graphics to show concepts not easily explained in words, and

(C) In depth and comprehensive presentation of subject matter which increases or supports the skills or competence of the Licensees.

(9) The provider of Course materials must have legal ownership of or an appropriate license for the use of all copyrighted material included within the Course materials. Board approved Course materials will contain a prominently displayed approval statement in 10 point bold type or larger containing the following language: "THIS CONTINUING PROFESSIONAL EDUCATION COURSE MATERIAL HAS BEEN APPROVED BY THE TEXAS STATE BOARD OF PLUMBING EXAMINERS FOR USE IN THE (state year) CPE YEAR. BY ITS APPROVAL OF THIS COURSE MATERIAL, THE TEXAS STATE BOARD OF PLUMBING EXAMINERS DOES NOT ASSUME ANY RESPONSIBILITY FOR THE ACCURACY OF THE CONTENTS OF THE COURSE MATERIAL. FURTHER, THE TEXAS STATE BOARD OF PLUMBING EXAMINERS IS NOT MAKING ANY DETERMINATION THAT THE PARTY PUBLISHING THE COURSE MATERIALS HAS COMPLIED WITH ANY APPLICABLE COPYRIGHT AND OTHER LAWS IN PUBLISHING THE COURSE MATERIAL AND THE TEXAS STATE BOARD OF PLUMBING EXAMINERS DOES NOT ASSUME ANY LIABILITY OR RESPONSIBILITY THEREFOR. THE COURSE MATERIAL IS NOT BEING PUBLISHED BY NOR IS IT A PUBLICATION OF THE TEXAS STATE BOARD OF PLUMBING EXAMINERS."

(10) The provider of Course Materials will conduct instructor training in the use of Course Materials.

(11) The provider of Course Materials will be required to have distribution facilities that will ensure prompt distribution of course materials, facsimile ordering and a statewide toll free telephone number for placing orders. The provider of Course Materials must ship any ordered material within ten business days after the receipt of the order and payment for the course materials.

(12) The Board shall annually approve only individuals, businesses or associations to provide Course Materials. Any individual, business or association who wishes to offer to provide Course Materials shall apply to the Board for approval using application forms prepared by the Board. In order to be approved, the application must satisfy the Board as to the ability of the individual, business or association to provide quality Course Materials as required in this Section and must include:

- (A) name and address of individual applicant,
- (B) names and addresses of all officers, directors, trustees or members of the governing board of any business or association applicant,
- (C) statement by individual applicant, and each officer, director, trustee or member of governing board as to whether he or she has ever been convicted of a felony,
- (D) current certificate of good standing issued to the business or association by the Texas Comptroller of Public Accounts for business or association applicants,
- (E) fees to be charged for Course Materials,
- (F) taxpayer identification number,
- (G) name, telephone number and electronic mail address of the individual who is designated by the provider of Course Materials to be responsible for answering inquiries and receiving notifications from the Board.

(13) If the provider of Course Materials sells Course Materials to Course Providers and Licensees, the Course Provider must sell the Course Materials at the same price as stated in the application.

(14) The Board may refuse to accept any application for approval as a provider of Course Materials that is not complete. The Board may deny approval of an application for any of the following reasons:

- (A) failure to comply with the provisions of this section; or
- (B) inadequate coverage of the materials required to be included in Course Materials.

(15) If an application is refused or disapproved, written notice detailing the basis of the decision shall be provided to the applicant.

(16) A provider's authority to offer the Course Materials for which CPE credit is given begins on July 1, of the calendar year of approval and continues until the Course Materials are no longer required for the renewal of an expired license. When requested in writing, the Board may authorize the use of these Course Materials prior to July 1, for industry related programs.

(17) All providers of Course Materials must meet the following time schedule each year for approval of Course Materials:

(A) At least 15 copies each of the draft version of the Course Materials must accompany the Course Material Provider application and be submitted to the Board's office no later than November 15 for Board approval at its January Board meeting.

(B) At least 15 copies each of the revised version of the Course Materials must be submitted to the Board's office no later than March 15, for Board approval at its April Board meeting.

(C) At least 15 copies each of all Course Materials that are approved at the Board's April Board meeting shall be provided to the Board's office in completed form no later than July 1 at no cost to the Board.

(18) A provider's failure to comply with this section constitutes grounds for disciplinary action against the provider or for disapproval of future applications for approval as a provider of Course Materials.

(b) Course Providers--The Board will annually approve only individuals, businesses or associations as Course Providers. Course Providers will offer classroom and correspondence instruction in the Course Materials used for the Continuing Professional Education (CPE) required for renewal of all licenses issued under the Act. Board approval of Course Providers will be subject to all of the terms and conditions of this Section. The following minimum criteria will be used by the Board in considering approval of Course Providers:

(1) CPE courses shall be presented in one of the following formats:

(A) Six classroom hours presented on one day

(B) Two sessions of three classroom hours each presented within a seven day period or

(C) An approved correspondence course.

(2) Not less than three hours of the classroom course will be in the subjects of health protection, energy conservation and water conservation.

(3) Presentations must be based on the Course Materials and any other materials approved by the Board.

(4) In addition to Course Materials, presentations may include videos, films, slides or other appropriate types of illustrations and graphic materials related to the Course Materials.

(5) Course Providers shall limit the number of students for any CPE class to forty-five (45). Course Providers may allow a Course Instructor to admit additional students in excess of forty-five (45) who apply to the Course Instructor for admittance to the class on the day of the class, only if the additional students:

(A) are currently on active duty as members of the United States armed forces, a reserve component of the United States armed forces or the state military forces; and

(B) present valid identification to the Course Instructor which indicates the additional students' status under subparagraph (A) of this paragraph.

(6) A Course Provider may not advertise or promote the sale of any goods, products or services between the opening and closing hours of any CPE class.

(7) Each Course Provider shall furnish a Certificate of Completion of CPE to each Licensee who completes its CPE course. The Certificate of Completion shall state the name of the Course Provider, the name of the student, the course year and the date the CPE course was completed.

(8) Each Course Provider shall, at its own expense and in a format approved by the Board, electronically transmit to the Board certification of each Licensee's completion of CPE requirements within forty-eight hours of completion.

(A) The Board may provide training to the Course Provider in the method for electronic transmittal.

(B) The Board may charge a fee to recover its costs for computer software and training in the use of the software to the Course Provider.

(9) Each Course Provider shall be reviewed annually by the Board to ensure that classes have been provided equitably across the state of Texas, except as provided in paragraph (15)(J) of this subsection.

(10) Each Course Provider must notify the Board at least 7 days before conducting a class or electronically post notice of the class schedule on the Course Provider's website at least 7 days before conducting a class.

(A) The notice shall contain the time(s) and place(s) where the classes will occur, and the name of the Course Instructor scheduled for each class.

(B) The notice shall be provided to the Board, whether or not the class is open to all licensees or limited to only a specific group or organization.

(C) The Course Provider shall provide a method to receive immediate notification from the scheduled Course Instructor, in the event that the Course Instructor is unable to provide instruction for the scheduled class; and

(i) the Course Provider shall make every effort to provide a substitute Course Instructor in order to avoid cancelling the scheduled class.

(ii) If cancellation of the class is unavoidable for any reason, the Course Provider shall make every effort to immediately notify each student affected by the cancellation; and

(iii) reschedule the cancelled class as soon as possible; and

(iv) notify the Board of the cancellation within 72 hours.

(11) Each Course Provider will perform self-monitoring of its classes and Course Instructors to ensure compliance with the Act and Board rules and reporting as required by the Board.

(12) Each Course Provider shall use only Course Instructors that have been approved by the Board. Each Course Provider shall annually submit to the Board's office a list of Course Instructors it employs and the instructors' credentials for approval no later than March 15 for approval by the Board at its April Board meeting. The Board may approve additional Course Instructors who meet the requirements of subsection (c) of this section, at any regularly scheduled Board meeting.

(13) Prior to allowing Course Instructors to teach CPE, Course Providers must provide documentation to the Board showing the instructor's successful completion of Course Materials training.

(14) Course Instructors must comply with subsection (c) of this section. Course Providers shall notify the Board within 10 days of any change of an instructor's employment status with the Course Provider.

(15) Any individual, business or association who wishes to be a Course Provider shall apply to the Board for approval using application forms prepared by the Board. In order to be approved, the application must satisfy the Board as to the ability of the individual, business or association to provide quality instruction in the Course Materials as required in this Section and must include:

- (A) name and address of individual applicant,
- (B) names and addresses of all officers, directors, trustees or members of the governing board of any business or association applicant,
- (C) statement by individual applicant, and each officer, director, trustee or member of governing board as to whether he or she has ever been convicted of a felony,
- (D) current certificate of good standing issued to the business or association by the Texas Comptroller of Public Accounts for business or association applicants,
- (E) taxpayer identification number,
- (F) facsimile number, statewide toll free telephone number, Internet web site and electronic mail address,
- (G) fees to be charged to Licensees for attending the course, considering the following:
 - (i) If the Course Provider is not also a provider of Course Materials and will purchase Course Materials, the Course Provider may not charge the Licensees more than its actual cost for the Course Materials supplied to the Licensees by the Course Provider.
 - (ii) The fees charged to the Licensees for attending the course will be determined by the Course Provider.
- (H) an example of a Licensee's Certificate of Completion of CPE,
- (I) CPE class scheduling plan,
- (J) plan for providing courses equitably across the state (the following individuals or businesses will not have to comply with this subparagraph:
 - (i) Employers applying to be approved as Course Providers for the purpose of providing CPE courses only to the employers' employees, and
 - (ii) Individuals who will not employ Course Instructors other than themselves),
- (K) method for compiling statistical data regarding number of CPE classes conducted, students instructed and similar data required to be submitted to the Board, in accordance with the following:
 - (i) Course Providers shall provide quarterly reports no later than December 15, March 15, June 15 and September 15, for the first year in which the Course Provider provides CPE courses;
 - (ii) Renewing Course Providers shall provide only annual reports, no later than September 15 of each year, for the preceding CPE course year.
- (L) method for ensuring that only Licensees who meet one or more of the following requirements may receive CPE credit for taking an CPE correspondence course:
 - (i) any Licensee that lives outside of the State of Texas, or
 - (ii) lives in a county that does not have a city with a population in excess of 100,000, or
 - (iii) who has an expired license that requires a CPE course that is no longer available in the classroom, or
 - (iv) who submits written proof to the Board from a physician stating the medical reason that the licensee is unable to attend a CPE class;
- (M) identification of the Course Materials which will be used by the Course Provider; and
- (N) the name, telephone number and electronic mail address of the individual who is designated by the Course Provider to responsible for answering inquiries and receiving notifications from the Board.

(16) The Board may refuse to accept any application for approval as a Course Provider that is not complete. The Board may deny approval of an application for any of the following reasons:

(A) failure to comply with the provisions of this section; or

(B) inadequate instruction of the materials required to be included in Course Materials.

(17) If an application is refused or disapproved, written notice detailing the basis of the decision shall be provided to the applicant.

(18) A Course Provider's authority to offer instruction in the Course Materials for which CPE credit is given, begins on July 1, of the calendar year of approval and expires on June 30, of the following calendar year after approval.

(19) All Course Provider applications must be submitted to the Board office no later than December 1, each year for approval at the Board's January meeting.

(20) The Board shall review Course Providers for quality in instruction. The Board shall also investigate and take appropriate action, up to and including revocation of authority to provide CPE, regarding complaints involving approved Course Providers.

(21) A provider's failure to comply with this section constitutes grounds for disciplinary action, up to and including revocation of authority to provide CPE, against the provider or for denial of future applications for approval as a Course Provider.

(c) Course Instructors--The Board will annually approve Course Instructors to provide the classroom instruction in the Course Materials used for the Continuing Professional Education (CPE) required for renewal of Journeyman Plumber, Master Plumber, Tradesman Plumber-Limited Licensee and Plumbing Inspector Licenses. Board approval of Course Instructors will be subject to all of the terms and conditions of this Section. Course Providers must submit the application of an individual who wishes to be approved by the Board as a Course Instructor, as provided by subsection (b)(12) and (13) of this section. The following minimum criteria will be used by the Board in considering approval of Course Instructors:

(1) Instructors must be licensees of the Board and attend and successfully complete a Course Instructor Certification Workshop each year conducted by the Board (the Board will charge a fee to recover its costs for conducting the Course Instructor Certification Workshop).

(2) Instructors will be required to successfully complete a Board approved program of 160 clock hours which meets the following criteria. The Board will allow credit for approved courses.

(A) 40 hours to provide the Instructor with the basic educational techniques and instructional strategies necessary to plan and conduct effective training programs.

(B) 40 hours to provide the Instructor with the basic techniques and strategies necessary to analyze, select, develop, and organize instructional material for effective training programs.

(C) 40 hours to provide the Instructor with the basic principles, techniques, theories, and strategies to establish and maintain effective relationships with students, co-workers, and other personnel in the classroom, industry, and community.

(D) 40 hours to provide the Instructor with the basic principles, techniques, theories, and strategies to communicate effectively with the use of instructional media.

(E) To maintain his/her status as an approved Course Instructor, the Instructor shall undergo one of the aforementioned training programs every 12 months such that the entire training (160 hours) is complete within four years.

(3) A Course Instructor may not advertise or promote the sale of goods, products, or services between the opening and closing hours of any CPE class.

(4) As a Course Instructor and Licensee of the Board, a Course Instructor must comply with the Plumbing License Law and Board Rules, including §367.2 of this title regarding Standards of Conduct. An Instructor has a responsibility to his students and employer to:

(A) be well versed in and knowledgeable of the Course Materials and ensure that classroom presentations are based only on the Course Materials and other materials approved by the Board,

(B) maintain an orderly and professional classroom environment,

(C) ensure that only students who receive six contact hours of instruction (excluding any time spent on breaks from instruction) receive credit for attending the CPE class,

(D) notify the Course Provider immediately, if the Course Instructor is unable to provide instruction for a CPE class that the instructor was scheduled to instruct, to allow the Course Provider to make every effort to provide a substitute Course Instructor to avoid cancelling the class, and

(E) coordinate with the Course Provider to develop an appropriate method for handling disorderly and disruptive students. A Course Instructor shall report to the Course Provider and the Board, any non-responsive and disruptive student who attends a CPE course. The Board may deny CPE credit to any such student and require, at the student's expense, successful completion of an additional CPE course to receive credit.

(5) The Board shall review Course Instructors for quality of instruction. The Board shall also respond to complaints regarding Course Instructors.

(6) A Course Instructor's failure to comply with this section constitutes grounds for disciplinary action against the Instructor or for disapproval of future applications for approval as a Course Instructor.

(7) At the beginning of each CPE class, the Course Instructor shall provide each individual student with a separate single page handout containing the text of paragraphs (4) - (6) of this subsection, in a format provided by the Board.

Source: The provisions of this §365.14 adopted to be effective May 14, 2000, 25 TexReg 3955; amended to be effective August 29, 2001, 26 TexReg 6299; amended to be effective December 30, 2001, 26 TexReg 10587; amended to be effective May 30, 2002, 27 TexReg 4571; amended to be effective August 11, 2004, 29 TexReg 7702; amended to be effective July 31, 2006, 31 TexReg 5969; amended to be effective February 2, 2009, 34 TexReg 597.

Chapter 367 Enforcement

Sec. 367.1. General Provisions.

(a) Enforcement of all applicable laws including the Act, Board rules, and Board orders vests in the Board.

(b) Enforcement of the Act, local codes, and ordinances, and local standards of competency vests in local authorities. The Board may take disciplinary actions as specified in this chapter in the event of any violation of any of these requirements.

(c) Each locally designated plumbing inspector shall enforce the Act and municipal ordinances and should file complaints with the Board and with local prosecutors.

(d) The Board shall employ individuals knowledgeable of plumbing practice and law as field representative to assist in the enforcement of the Act. A field representative may:

(1) Inspect plumbing work sites to assess compliance with the Law;

(2) Inquire into consumer complaints and reported violations of the Law;

(3) Assist municipal authorities in enforcing the Act; and

(4) Issue citations for violations of the Act.

(e) To protect the health and safety of the citizens of this state, the Board adopts the following plumbing codes:

(1) the 2006 Uniform Plumbing Code, as published by the International Association of Plumbing and Mechanical Officials; and

(2) the 2006 International Plumbing Code, as published by the International Code Council and the codes incorporated by reference within the 2006 International Plumbing Code, including:

(A) the 2006 International Fuel Gas Code; and

(B) the 2006 International Residential Code.

(f) The Board may by rule adopt later editions of the plumbing codes listed under subsection (e) of this section.

(g) Plumbing must be installed in accordance with the plumbing codes applicable to the area or jurisdiction where the plumbing is installed.

(1) Plumbing installed in an area where no plumbing code has been adopted and not otherwise subject to regulation under the Act or another state law by an individual licensed under the Act must be installed in accordance with a plumbing code adopted by the Board under subsection (e) or (f) of this section.

(2) Incomplete plumbing installations which commenced under the requirements of an earlier edition of the plumbing codes and prior to the Board's adoption of the 2006 editions of the plumbing codes, may continue to completion under the requirements of the earlier edition.

(3) Liquefied Petroleum Gas (LPG) piping must be installed in accordance with the rules of the Texas Railroad Commission.

(h) In adopting plumbing codes and standards for the proper design, installation, and maintenance of a plumbing system under this section, a municipality or an owner of a public water system may amend any provisions of the codes and standards to conform to local concerns that do not substantially vary with rules or laws of this state.

(i) Plumbing installed in compliance with a code adopted under subsection (e), (f), or (h) of this section must be inspected by a plumbing inspector. To perform this inspection, the political subdivision may contract with any plumbing inspector or qualified plumbing inspection business, as determined by the political subdivision, that is paid directly by the political subdivision. The plumbing inspector must be licensed as required by §§1301.255(e), 1301.351(b) and 1301.551 of the Plumbing License Law.

(j) The potable water supply piping for every plumbing fixture, including water closet plumbing fixtures and other equipment that use water shall be installed to prevent the back flow of nonpotable substances into the potable water system according to the provisions of an adopted plumbing code. Water closet fill valves (ball cocks) shall be of the antisiphon, integral vacuum breaker type with the critical level (the air inlet portion of the vacuum breaker) installed at least one inch (1") above the flood level rim of the fixture (the inlet of the water closet overflow tube).
Source: The provisions of this §367.1 adopted to be effective August 25, 1993, 18 TexReg 5400; amended to be effective December 8, 1993, 18 TexReg 8787; amended to be effective August 8, 1994, 19 TexReg 5711; amended to be effective February 5, 1998, 23 TexReg 755; amended to be effective January 30, 2001, 26 TexReg 975; amended to be effective December 30, 2001, 26 TexReg 10592; amended to be effective August 11, 2004, 29 TexReg 7702; amended to be effective February 2, 2009, 34 TexReg 598.

Section 367.2. Standards of Conduct.

(a) Offer to Perform Services. The Licensee and Registrant:

(1) shall accurately and truthfully represent to any prospective client or employer, his or her capabilities and qualifications to perform the services to be rendered;

(2) shall not offer to perform, nor perform, technical services for which he or she is not qualified by education or experience, without retaining the services of another who is so qualified; and

(3) shall not evade responsibility to a client or employer.

(b) Conflicts of Interest. The Licensee and Registrant:

(1) shall not agree to perform services if any significant financial or other interest exists that may be in conflict with:

(A) the obligation to render a faithful discharge of such services; or

(B) would impair independent judgment in rendering such services;

(2) shall withdraw from employment when it becomes apparent that it is not possible to faithfully discharge the duty and performance of services owed the client or employer, but then only upon reasonable notice to the client or employer; and

(3) shall not accept remuneration from any person other than the client or employer for a particular project, nor have any other financial interest in other service or phase of service to be provided for the project, unless the client or employer has full knowledge and so approves.

(c) Representations. The Licensee and Registrant:

(1) shall not indulge in advertising that is false, misleading, deceptive, or which does not clearly display the licensees' state license number;

(2) shall not misrepresent the amount or extent of prior education or experience to any employer or client, or to the Board;

(3) shall, when providing estimates for costs or completion times of a proposed project, represent to a prospective client or employer as accurately and truthfully as is reasonably possible the costs and completion time of the proposed project; and

(4) shall not hold out as being engaged in partnership or association with any person unless a partnership or association exists in fact.

(d) Compliance with Board Orders. The Licensee and Registrant shall comply fully with all Board Orders.

(e) Responsibilities of Plumbing Licensees and Registrants.

(1) Licensees and Registrants must abide by all laws and rules regulating plumbing, including the Standards of Conduct set forth in this section, within any geographic location in this state when performing or offering to perform plumbing work or plumbing inspections.

(2) In areas where no plumbing code is adopted one of the state approved codes shall be followed by the Licensee and Registrant.

(f) In addition to complying with the requirements of subsections (a) - (e) of this section, each Licensed Plumbing Inspector shall also comply with the following:

(1) A Plumbing Inspector shall not have any financial or advisory interest in any plumbing company.

(2) All compensation paid for a plumbing inspection shall be paid directly to the individual Licensed Plumbing Inspector or qualified plumbing inspection business by the political subdivision for which the plumbing inspection is performed.

(A) The political subdivision may determine the qualifications for the plumbing inspection business.

(B) The plumbing inspection business must utilize only licensed Plumbing Inspectors to perform plumbing inspections, as required by §§1301.002(8), 1301.255(e), 1301.351(b) and 1301.551(d) of the Act and these Rules.

(C) Qualifications for plumbing inspectors shall be determined by the Board, as provided in the Act and these Rules.

(3) A Plumbing Inspector shall not accept any compensation or anything of value from any contractor or owner whose work is being inspected by the Plumbing Inspector.

(4) Prior to the performance of any Plumbing Inspection, the Plumbing Inspector must have submitted to the Board written proof of employment or contract for the purposes of performing plumbing inspections by each political subdivision that the Plumbing Inspector is employed by, or under contract.

(5) A Plumbing Inspector may be employed by or contract with any political subdivision throughout the state and a Plumbing Inspector's authority to enforce the Act , Board Rules and local ordinances lies only within the jurisdiction of the political subdivision/s that the Plumbing Inspector is employed by or under contract.

(6) A Plumbing Inspector shall not, in any manner, represent or indicate that the Plumbing Inspector is employed by or a representative of the Board or the State of Texas unless, in fact, the Plumbing Inspector is employed by the Board or the State of Texas.

(7) Each Plumbing Inspector shall enforce the Plumbing License Law, Board Rules, and the adopted plumbing code within the Plumbing Inspector's jurisdiction. The enforcement shall be applied in a consistent and equitable manner to all persons within the Plumbing Inspector's jurisdiction.

Source: The provisions of this §367.2 adopted to be effective August 25, 1993, 18 TexReg 5400; amended to be effective June 2, 1994, 19 TexReg 3931; amended to be effective December 5, 1996, 21 TexReg 11486; amended to be effective January 30, 2001, 26 TexReg 975; amended to be effective December 30, 2001, 26 TexReg 10592; amended to be effective November 8, 2004, 29 TexReg 10266; amended to be effective October 30, 2007, 32 TexReg 7689.

Section 367.3 Requirements for Plumbing Companies, Responsible Master Plumbers; Certificate of Insurance.

(a) A company or person advertising or otherwise offering to perform plumbing or provide plumbing must secure the services of at least one Responsible Master Plumber holding a current Master Plumber License.

(1) Only a company or person which has secured the services of a Responsible Master Plumber as required by this Section, may:

(A) advertise or otherwise offer or agree to perform plumbing or provide plumbing to the public; or

(B) contract or agree to perform plumbing or provide plumbing with the public.

(C) For the purposes of this Section, "public" means any person other than Responsible Master Plumbers or companies which have secured the services of Responsible Master Plumbers.

(2) A Responsible Master Plumber shall not allow any person, firm, company, or corporation to use his or her Master Plumber License for any purpose unless the Master Plumber is a bona fide employee of the person, firm, company, or corporation or is the owner of the firm, company, or corporation that will use the master plumber's license.

(3) A Master Plumber may act as the Responsible Master Plumber for only one such person, company, firm, or corporation.

(4) The Responsible Master Plumber shall be knowledgeable of and responsible for all permits, contracts, and agreements to perform plumbing work secured and plumbing performed under his or her Master Plumber License.

(5) All plumbing performed under the license of the Responsible Master Plumber, other than that performed in accordance with §365.1 of these Rules by a Drain Cleaner-Restricted Registrant, Drain Cleaner or Residential Utilities Installer, shall be under the on-the-job direct supervision of a licensed plumber who is under written contract with, a bona fide employee of, or the owner of the firm, company, or corporation using the Responsible Master Plumber's License.

(A) A licensed plumber, whether as an employee or under contract as provided by (a)(5) of this Section, may only perform plumbing under contracts or agreements to perform plumbing secured by the Responsible Master Plumber.

(B) All vehicles used in conjunction with plumbing by an employee or a licensed plumber under contract, must be marked with the Responsible Master Plumber's license number and company name, in the same manner as required in §367.4 of these Rules.

(C) The Responsible Master Plumber is subject to all requirements and responsibilities set forth by the Plumbing License Law and Board Rules, whether or not the plumbing was performed by an employee or a licensed plumber under contract.

(6) Prior to acting as a Responsible Master Plumber as defined in these Rules, a Master Plumber shall furnish the Board with a certificate of insurance using a Certificate of Insurance form provided by the Board. The certificate of insurance must:

(A) be written by a company licensed to do business in this state;

(B) provide for commercial general liability insurance for the Master Plumber for claims for property damage or bodily injury, regardless of whether the claim arises from a negligence claim or on a contract claim;

(C) be in a coverage amount of not less than \$300,000 for all claims arising in any one-year period;

(D) state the name and license number of the Master Plumber for whom the coverage is provided;

(E) state the name of the plumbing company for which the Master Plumber is acting as the Responsible Master Plumber.

(7) Insurance coverage specified in paragraph (6) of this section, shall be maintained at all times during which a Master Plumber acts as a Responsible Master Plumber.

(8) The Certificate of Insurance form expires on the date that the insurance coverage, specified in paragraph (6) of this section, expires.

(9) The Responsible Master Plumber shall furnish the Board with a completed Certificate of Insurance form not later than 10 days after the expiration of the previously furnished Certificate of Insurance form.

(10) Each written contract for plumbing services by the licensed Responsible Master Plumber shall contain the Responsible Master Plumber's License number, the Board's name, mailing address and telephone number. The term "written contract" includes documents used by a plumber or plumbing company to define the scope and cost of the work to be provided to the public. This would include items such as service invoices, billing invoices or any document which defines the services and cost of the services provided to the consumer. For the purposes of this section, the public need not sign the document for it to be considered a contract.

(b) A company or person offering to install pipe used solely to transport gases for medical purposes must first secure the services of at least one Responsible Master Plumber that holds a current Master Plumber License that contains a current Medical Gas Installation Endorsement issued by the Board to be responsible for the installation of all pipe used solely to transport gases for medical purposes installed by that company and permits required to install the piping.

(1) The Responsible Master Plumber with the Medical Gas Installation Endorsement shall be responsible for generally supervising any individuals involved in the installation of pipe used solely to transport gases for medical purposes installed by that company and ensuring that all medical gas pipe assembly, brazing, and installation of required pipe markings is performed only by a Licensed Plumber holding a current Medical Gas Installation Endorsement issued by the Board.

(2) The relationship between the Master Plumber and the company or person using the Responsible Master Plumber's License with the Medical Gas Installation Endorsement must be as defined in subsection (a) of this section.

Source: The provisions of this §367.3 adopted to be effective August 25, 1993, 18 TexReg 5400; amended to be effective June 2, 1994, 19 TexReg 3932; amended to be effective June 7, 1996, 21 TexReg 4689; amended to be effective April 9, 1998, 23 TexReg 3447; amended to be effective January 30, 2001, 26 TexReg 976; amended to be effective December 30, 2001, 26 TexReg

10592; amended to be effective August 11, 2004, 29 TexReg 7703; amended to be effective October 30, 2007, 32 TexReg 7689.

Section 367.4. Display of License and Company Name.

(a) Responsible Master Plumbers shall display the frameable certificate license in their place of business and all Licensees shall carry the pocket card license with them while engaged in work.

(b) Each Responsible Master Plumber shall display permanently his or her Master Plumber License number and company name on both sides of all service vehicles used in conjunction with plumbing contracting by the Responsible Master Plumber.

(1) For the purposes of this rule a magnetic sign on a vehicle is not a permanent sign.

(2) The letters and numbers shall be not less than two (2) inches high and shall be in a color sufficiently different from the body of the vehicle so that the letters and numbers shall be plainly legible at a distance of not less than one hundred (100) feet.

Source: The provisions of this §367.4 adopted to be effective August 25, 1993, 18 TexReg 5400; amended to be effective April 15, 1994, 19 TexReg 2280; amended to be effective June 7, 1996, 21 TexReg 4689; amended to be effective October 14, 1996, 21 TexReg 9447; amended to be effective January 30, 2001, 26 TexReg 976.

Sec. 367.5. On-Site License and Registration Checks.

The Board may conduct on-site license and registration checks of individuals engaged in plumbing or plumbing inspection as it deems appropriate. The Board may initiate disciplinary actions against those discovered without a license or registration, or may refer the violations to local authorities for enforcement and disposition.

Source: The provisions of this §367.5 adopted to be effective August 25, 1993, 18 TexReg 5400; amended to be effective December 30, 2001, 26 TexReg 10592.

Sec. 367.6. Nonperformance of Service.

The Board may consider complaints of nonperformance of plumbing contracts or agreements to render services as grounds for disciplinary action. Any person, agency, or local authority may file such a complaint.

Source: The provisions of this §367.6 adopted to be effective August 25, 1993, 18 TexReg 5400; amended to be effective January 30, 2001, 26 TexReg 977.

Sec. 367.7. Violations of Standards and Practices.

(a) The Board may take disciplinary actions as specified in chapter 365 of these rules (relating to Licensing and Registration) in the event of any violation of any of these requirements.

(b) A person commits a Class C misdemeanor by:

(1) Violating the act or the rules adopted under it;

(2) Performing non-exempt plumbing work without holding a valid license, registration or endorsement issued through the Board;

(3) Employing an unlicensed or unregistered individual to perform activities that by law require the skills and supervision of an individual registered or licensed by the Board without providing for that individual's supervision as specified by the Act and Board Rules.

(4) Proclaiming through advertising or by producing another's plumbing license, registration or license or registration number or by other means claiming that:

(A) an individual is a licensed plumber or is registered with the Board when in fact that individual is not a plumber licensed or registered by the Board, or

(B) that a person or plumbing company has secured the services of a Responsible Master Plumber as specified in Section 367.3 of this title, when in fact that company has not;

(5) Acting, serving, or representing oneself as a Plumbing Inspector, or conducting plumbing inspections as defined in the Act and Board Rules without holding a valid Plumbing Inspector License and without being employed by, or an independent contractor for a political subdivision.

(c) A person who violates any provision of the act or these rules or any other order of the Board is subject to a penalty of not less than \$50 or more than \$1,000 for each violation and for each day of violation after notification.

Source: The provisions of this §367.7 adopted to be effective August 25, 1993, 18 TexReg 5400; amended to be effective December 8, 1993, 18 TexReg 8787; amended to be effective August 16, 1996, 21 TexReg 7377; amended to be effective August 3, 2000, 25 TexReg 7177; amended to be effective January 30, 2001, 26 TexReg 977; amended to be effective December 30, 2001, 26 TexReg 10592.

367.8. Investigation of Complaints.

(a) In accordance with the Memorandum of Understanding with the Texas Department of Licensing and Regulation, described in §1301.259 of the Plumbing License Law:

(1) the Board's Field Representatives and the Texas Department of Licensing and Regulation enforcement officers are authorized to perform on-site checks of the licenses, registrations and endorsements held by persons practicing occupations regulated by either agency and report alleged violations to the agency regulating the occupation; and

(2) the Board and the Texas Department of Licensing and Regulation shall conduct joint investigations, as circumstances require.

(b) The Board may utilize its Field Representatives, Director of Enforcement and Enforcement Committee, as appropriate, to investigate an alleged violation of the Plumbing License Law or Board Rules by a person who:

(1) is registered or licensed under the Plumbing License Law; or

(2) performs plumbing without holding a registration or license under the Plumbing License Law.

(c) The Director of Enforcement shall maintain a file and computer records on each written complaint alleging a violation of the Plumbing License Law or Board Rules filed with the board. The file and computer records are subject to the agency's record retention schedule and must include:

(1) the source of the complaint;

(2) the name of the person who filed the complaint;

(3) the date the complaint is received by the agency;

(4) the type and subject matter of the complaint;

(5) the geographic area, including the name of any municipality and the county in which the conduct that is the subject of the complaint occurred;

(6) the name of each person contacted in relation to the complaint;

(7) a summary of the results of the review or investigation of the complaint; and

(8) an explanation of the reason the file was closed, if the agency closed the file without taking action other than to investigate the complaint.

(d) The Director of Enforcement shall review the statistical information available in the complaint files and computer records, described in subsection (c) of this section, to identify geographical problem areas of the state where enforcement should be focused and make recommendations to the Enforcement Committee and the Executive Director for addressing the problems utilizing the resources available to the agency.

(e) Upon receipt of a complaint, the Director of Enforcement shall assign a priority of investigation to the complaint, with the highest priorities based on:

(1) any existing conditions that pose an immediate risk to public health, safety or property; and

(2) the possible loss of evidence that may occur if the complaint was investigated only in relation to the order that it was received; and

(3) complaints which do not contain existing conditions that pose an immediate risk or possible loss of evidence, as described in subsection (e)(1) or (e)(2) of this section, shall be investigated in relation to the order in which the complaint was received.

(f) The Director of Enforcement shall provide to the person filing the complaint and to each person who is a subject of the complaint a copy of the agency's policies and procedures relating to complaint investigation and resolution.

(g) The Director of Enforcement shall track each complaint and, at least quarterly and until final disposition of the complaint, shall notify the person filing the complaint and each person who is a subject of the complaint of the status of the investigation, unless the notice would jeopardize an undercover investigation.

(h) Following the investigation of a complaint, the Director of Enforcement shall refer the findings of the investigation with recommendations for disposition of the complaint to the Enforcement Committee.

Source: The provisions of this §367.8 adopted to be effective August 11, 2004, 29 TexReg 7703.

367.9. Enforcement Committee; Complaint Review.

(a) The Enforcement Committee shall pursue expeditious resolution of complaints by voluntary agreed settlement, whenever appropriate.

(b) The Enforcement Committee may review complaints and alleged violations referred by the Director of Enforcement and may determine to:

(1) dismiss a complaint due to:

(A) no occurrence of a violation; or

(B) the lack of sufficient evidence to prove a violation;

(2) further investigate a complaint;

(3) find that a violation may have occurred and issue a warning;

(4) find that a violation occurred and pursue an administrative penalty under the Administrative Penalty Schedule adopted by the Board;

(5) find that a violation occurred and pursue license or registration probation, suspension or revocation; or

(6) pursue any other or additional action allowed under the Plumbing License Law and Board Rules that justice may require, including:

(A) issue a Cease and Desist Order, under §1301.5045, of the Plumbing License Law;

(B) file an injunction under §1301.504, of the Plumbing License Law;

(C) issue a Class C Misdemeanor citation to repetitive offenders of the Plumbing License Law or Board Rules, only if other enforcement measures, including administrative penalties have previously been imposed; or

(7) offer an Informal Conference to a Respondent in accordance with the requirements of the Administrative Procedure Act, if the Enforcement Committee determines that such a conference is needed to assist the Enforcement Committee in determining:

(A) whether or not a violation occurred;

(B) the seriousness or the effect of a violation;

(C) the appropriate disciplinary action to be pursued, including administrative penalties, license or registration probation, suspension or revocation; or

(D) the amount of restitution to be paid by a Respondent, under §1301.5071, of the Plumbing License Law, instead of, or in addition to other disciplinary actions.

Source: The provisions of this §367.9 adopted to be effective August 11, 2004, 29 TexReg 7703

367.10. Administrative Penalty.

(a) If the Enforcement Committee decides to pursue an administrative penalty under the Administrative Penalty Schedule adopted by the Board, the Director of Enforcement shall issue a Notice of Alleged Violation to the Respondent which must include a brief summary of the alleged violation, state the amount of the penalty pursued and inform the Respondent of the Respondent's right to a hearing before the State Office of Administrative Hearings on the occurrence of the violation or the amount of the penalty.

(b) Not later than the 20th day after the Notice of Alleged Violation is received by the Respondent, the Respondent, in writing, shall:

(1) agree to settle the matter without a formal hearing before the State Office of Administrative Hearings and accept the determination and settlement penalty recommended by the Enforcement Committee; or

(2) make a request for a formal hearing before the State Office of Administrative Hearings on the occurrence of the violation, the amount of the penalty, or both.

(c) If the Respondent agrees to settle the matter without a formal hearing and accepts the determination and amount of penalty pursued by the Enforcement Committee, the Respondent shall pay the penalty to the Board not later than 60 days following the date that the Notice of Alleged Violation was issued.

(d) The Enforcement Committee shall provide a report to the Board stating a summary of the facts or allegations against the Respondent and the amount of the recommended administrative penalty agreed to by the Enforcement Committee and the Respondent. The Board, by order, shall approve the recommended penalty.

(e) The Enforcement Committee shall set a formal hearing on the matter as a contested case at the State Office of Administrative Hearings if:

(1) the Respondent requests a formal hearing not later than the 20th day after the Notice of Alleged Violation is received by the Respondent;

(2) the Respondent fails to respond in writing to the Notice of Alleged Violation not later than the 20th day after the Notice of Alleged Violation is received by the Respondent; or

(3) the Respondent fails to pay the agreed settlement penalty to the Board not later than 60 days following the date that the Notice of Alleged Violation was issued.

(f) The Board shall not renew the license or registration of a Respondent who fails to:

(1) respond in writing to the Notice of Alleged Violation not later than the 20th day after the notice was received by the Respondent; or

(2) pay the settlement penalty to the Board not later than 60 days following the date that the Notice of Alleged Violation was issued, if the Respondent previously agreed to the penalty in written response to the Notice of Alleged Violation.

Source: The provisions of this §367.10 adopted to be effective August 11, 2004, 29 TexReg 7703.

367.11. Reprimand; Probation; Suspension; Revocation.

(a) The board shall revoke, suspend, or refuse to renew a license, endorsement, or registration or shall reprimand a holder of a license, endorsement, or registration for a violation of the Plumbing License Law or Board Rules.

(b) For the purposes of this section, a reprimand means any disciplinary action, other than the probation, suspension or revocation of a license, endorsement or registration.

(c) A person whose license, endorsement, or registration has been revoked may not apply for a new license, endorsement, or registration before one year from the date of final revocation.

(d) The board may place on probation a person whose license, endorsement, or registration is suspended. If a license, endorsement, or registration suspension is probated, the board may require the person:

- (1) to report regularly to the agency on matters that are the basis of the probation;
- (2) to limit practice to the areas prescribed by the board; or
- (3) to continue or review professional education until the person attains a degree of skill satisfactory to the board in those areas that are the basis of the probation.

(e) If the Enforcement Committee or the Board determines that probation is appropriate to deter future violations of the Plumbing License Law and Board Rules by the Respondent, probation shall be administered consistently under the following guidelines:

(1) for violations with greater potential to jeopardize public health, safety, welfare, property, or environment (as listed in the Board's Administrative Penalty Schedule for Class A violations), the term of the probation may not be less than one year or more than five years; and

(2) for violations with less potential to jeopardize public health, safety, welfare, property, or environment (as listed in the Board's Administrative Penalty Schedule for Class B violations), the term of the probation may not be less than six months or more than one year.

(f) Probation by voluntary agreed settlement between a Respondent and the Enforcement Committee may meet such terms that both parties deem fair and which in the interest of justice may require.

Source: The provisions of this §367.11 adopted to be effective August 11, 2004, 29 TexReg 7703.

367.12. Failure to Request Hearing After Notice of Intent to Deny or Revoke.

(a) If the Enforcement Committee proposes to deny an examination or registration to an applicant, or revoke a license, registration, or endorsement, the Enforcement Committee shall give timely written notice of the denial or revocation to the applicant to the last known address provided to the Board by the applicant.

(b) The language of the notice shall include:

(1) a summary of the allegations against the applicant;

(2) the applicant's right to be represented by an attorney on the matter;

(3) the applicant's right to request a hearing on the matter before the State Office of Administrative Hearings;

(4) the applicant's request for a hearing must be made no later than 20 days after the receipt of the notice; and

(5) the applicant's failure to request a hearing within 20 days after the receipt of the notice results in the Enforcement Committee's decision to deny or revoke becoming final and judicial appeal of the denial or revocation being waived by the applicant.

(c) Any individual whose application for examination, a license, registration or endorsement has been denied or revoked may re-apply to the Board after a waiting period of at least one year from the date that the denial or revocation became final. The Enforcement Committee shall be delegated the authority of making the initial review of the re-application. If the Committee decides to deny the re-application it shall proceed as defined in subsection (a) of this section.

(d) If the committee makes a decision to approve the applicant's request, it must be presented for approval before the Board members, at a regularly scheduled Board meeting to approve the applicant's request, if approved, then the applicant is to follow the same licensing or registration procedures required of a first-time licensee or registrant.

Source: The provisions of this §367.12 adopted to be effective August 11, 2004, 29 TexReg 7703.

367.13. Informal Conference.

(a) If the Enforcement Committee decides to offer an Informal Conference to a Respondent, the Director of Enforcement shall give notice of the Informal Conference, including a summary of the alleged violation and the Respondent's right to request a hearing on the allegations at the State Office of Administrative Hearings.

(b) If the Informal Conference results in the Enforcement Committee and the Respondent entering into an agreed settlement of restitution or action on the Respondents license or registration, the Director of Enforcement shall prepare an Agreed Final Order to be presented by the Enforcement Committee to the Board for adoption.

(c) If the Informal Conference fails to result in an agreed settlement, the Enforcement Committee shall set a formal hearing on the matter as a contested case at the State Office of Administrative Hearings.

Source: The provisions of this §367.13 adopted to be effective August 11, 2004, 29 TexReg 7703.

367.14. Contested Case; State Office of Administrative Hearings.

(a) A contested case shall mean any action that is referred by the Enforcement Committee or the Board to the State Office of Administrative Hearings.

(b) Respondent means:

(1) a person in a contested case charged with a violation of the Plumbing License or Board Rules; or

(2) an applicant who has been denied a license, registration or endorsement by the Enforcement Committee.

(c) The Board shall provide for a hearing at the State Office of Administrative Hearings, when requested by a Respondent, after issuing a formal complaint that:

(1) charges an individual with any violation of the Plumbing License Law or Board Rules; or

(2) would prevent an otherwise qualified individual from obtaining or renewing a license, registration, or endorsement, or taking an examination.

(d) The Board shall conduct the hearing in accordance with all applicable provisions of the:

(1) Administrative Procedure Act;

(2) State Office of Administrative Hearings Rules;

(3) Plumbing License Law; and

(4) Board Rules.

Source: The provisions of this §367.14 adopted to be effective August 11, 2004, 29 TexReg 7703; amended to be effective May 2, 2006, 31 TexReg 3535.